

***United States Court of Appeals  
for the Second Circuit***



**APPELLEE'S  
APPENDIX**





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**74-1235**

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IN THE  
**United States Court of Appeals**  
FOR THE SECOND CIRCUIT

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ABDON ACEVEDO, et al.,

*Plaintiffs-Appellants,*

— against —

NASSAU COUNTY, et al.,

*Defendants-Appellees.*

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APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

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**APPENDIX OF DEFENDANT-APPELLEE  
COUNTY OF NASSAU**

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JOSEPH JASPAN,  
*County Attorney of Nassau County,  
Attorney for Defendant-Appellee County of Nassau  
Nassau County Executive Building,  
Mineola, New York 11501.*

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PAGINATION AS IN ORIGINAL COPY

MONDAY, NOVEMBER 26, 1962

WHEREAS, the said recommendation has stated that an emergency exists, the nature of which is to consider and take immediate action upon a resolution adopting, ratifying, affirming and approving a memorandum and revised application prepared by Special Counsel for surplus Federal land at Mitchel field for education, public health, recreation, civic and cultural uses of Nassau County. Now, therefore, be it

RESOLVED, that the Board of Supervisors, hereby declares that an emergency exists within Nassau County, the nature of which is to consider and take immediate action upon a resolution entitled: "A RESOLUTION ADOPTING, RATIFYING, AFFIRMING AND APPROVING A MEMORANDUM AND REVISED APPLICATION PREPARED BY SPECIAL COUNSEL AND ITS TRANSMISSION TO THE HON. P. KENNETH O'DONNELL, THE HON. BERNARD L. BOUTIN, THE HON. ANTHONY J. COLEBREZZE AND THE HON. STEWART L. UDALL, IN SUPPORT OF THE REVISED APPLICATION OF THE COUNTY OF NASSAU FOR SURPLUS FEDERAL LAND AT MITCHEL FIELD FOR EDUCATION, PUBLIC HEALTH, RECREATION, CIVIC AND CULTURAL USES; PURSUANT TO THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY".

Approved: November 26, 1962

EUGENE H. NICKERSON

County Executive

The vote on the foregoing resolution is recorded as follows:

Ayes: Costigan 2; Caso 31; Farrington 31; Reilly 2; Martin 21; Burns 28. Total 115.

Noes: None.

Supervisor Burns offered the following resolution and moved its adoption, which was unanimously adopted after a poll of the members of the board:

RESOLUTION NO. 712-D, 1962

A RESOLUTION ADOPTING, RATIFYING, AFFIRMING AND APPROVING A MEMORANDUM AND REVISED APPLICATION PREPARED BY SPECIAL COUNSEL AND ITS TRANSMISSION TO THE HON. P. KENNETH O'DONNELL, THE HON. BERNARD L. BOUTIN, THE HON. ANTHONY J. COLEBREZZE AND THE



MONDAY, NOVEMBER 26, 1962

HON STEWART L. UDALL, IN SUPPORT OF THE REVISED APPLICATION OF THE COUNTY OF NASSAU FOR SURPLUS FEDERAL LAND AT MITCHEL FIELD FOR EDUCATION, PUBLIC HEALTH, RECREATION, CIVIC AND CULTURAL USES, PURSUANT TO THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY.

(Passed by Board of Supervisors on November 26, 1962; Votes for 115; votes against, none. Became a resolution on November 26, 1962 with the approval of the County Executive.)

WHEREAS it is the mutual desire of the County Executive and the Board of Supervisors to undertake all possible means to insure that Nassau County receives an equitable portion of the Federal lands at Mitchel Field; and

WHEREAS, Judges Samuel I. Rosenman, Charles Poletti and Bruce Bromley acting on behalf of the County, at the request of the County Executive and the Board of Supervisors, have prepared a memorandum appealing to the Hon. P. Kenneth O'Donnell, the Hon. Bernard L. Boutin, the Hon. Anthony J. Celebrezze and the Hon. Stewart L. Udall, and submitting a revised application of the County of Nassau for surplus Federal land at Mitchel Field for education, public health, recreation, civic and cultural uses; now, therefore, be it

RESOLVED, that the Board of Supervisors hereby adopts, ratifies, affirms and approves the said memorandum and revised application prepared by Special Counsel for surplus Federal land at Mitchel Field for education, public health, recreation, civic and cultural uses of Nassau County, and be it further

RESOLVED, that the transmission of the said memorandum by Special Counsel be and the same hereby is authorized and requested.

Approved: November 26, 1962

EUGENE H. NICKERSON

County Executive

The vote on the foregoing resolution is recorded as follows:

Ayes: Costigan 2; Cazo 31; Farrington 31; Reilly 2; Martin 21; Burns 28. Total 115.

Noes: None.

MITCHEL FIELD COMPLEX

APR 28 1970

MONDAY, DECEMBER 30, 1963

treasurer is authorized to carry over such encumbered and committed balances to the year 1964.

Section 2. This ordinance shall take effect immediately.

Approved: December 30, 1963

EUGENE H. NICHOLSON

County Executive

The vote on the foregoing ordinance is recorded as follows:

Ayes: Costigan 2; Caso 31; Reilly 2; Martin 21; Farrington 31.  
Total 87.

Noes: None.

Supervisor Farrington offered the following ordinance and moved its adoption, which was unanimously adopted after a poll of the members of the board:

ORDINANCE NO. 230, 1963

AN ORDINANCE NAMING SO MUCH OF THE AREA LOCATED AT MITCHEL FIELD AIR FORCE BASE TO BE DESIGNATED AS NASSAU COUNTY'S EDUCATIONAL, CIVIC AND CULTURAL CENTER AS THE JOHN F. KENNEDY EDUCATIONAL, CIVIC AND CULTURAL CENTER; PURSUANT TO THE PROVISIONS OF THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY AND THE NASSAU COUNTY ADMINISTRATIVE CODE

(Passed by Board of Supervisors on December 30, 1963; Votes for 87; votes against, none. Became an ordinance on December 30, 1963 with the approval of the County Executive.)

WHEREAS, the County of Nassau has acquired from the United States Government approximately 435 acres in the area known as Mitchel Field, and

WHEREAS, it is the announced intention of the Nassau County Government to establish on this acreage an Educational, Civic and Cultural Center which has not yet been named, and

WHEREAS, many citizens of Nassau County have made suggestions to the County Executive that a suitable memorial be established in honor of the late President of the United States, John F. Kennedy, and



MONDAY, DECEMBER 30, 1963

WHEREAS, the late President of the United States, John F. Kennedy evidenced a deep and abiding interest in the education of our youth, as well as in the cultural life of our nation, and

WHEREAS, there has been established for the purpose of planning and developing the use of this area, the Mitchel Field Planning Committee, and

WHEREAS, at a regularly scheduled meeting of said Planning Committee, it was unanimously agreed by those present that the area to be used for Nassau County's Educational, Civic and Cultural Center should be named the John F. Kennedy Educational, Civic and Cultural Center,

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF NASSAU AS FOLLOWS:

Section 1. That so much of the land acquired from the United States Government, located in the area known as the Mitchel Field Air Force Base, to be designated for Nassau County's Educational, Civic and Cultural Center, and not assigned for the use and purposes of the Nassau Community College, be and hereby is named the John F. Kennedy Educational, Civic and Cultural Center.

Section 2. This ordinance shall take effect immediately.

Approved: December 30, 1963

EUGENE H. NICKERSON

County Executive

The vote on the foregoing ordinance is recorded as follows:

Ayes: Costigan 2; Caso 31; Reilly 2; Martin 21; Farrington 31.  
Total 87.

Noes: None.

Supervisor Martin offered the following resolution and moved its adoption, which was unanimously adopted after a poll of the members of the board:

RESOLUTION NO. 938, 1963

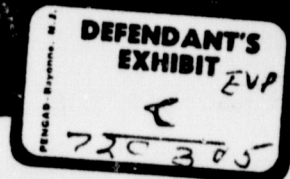
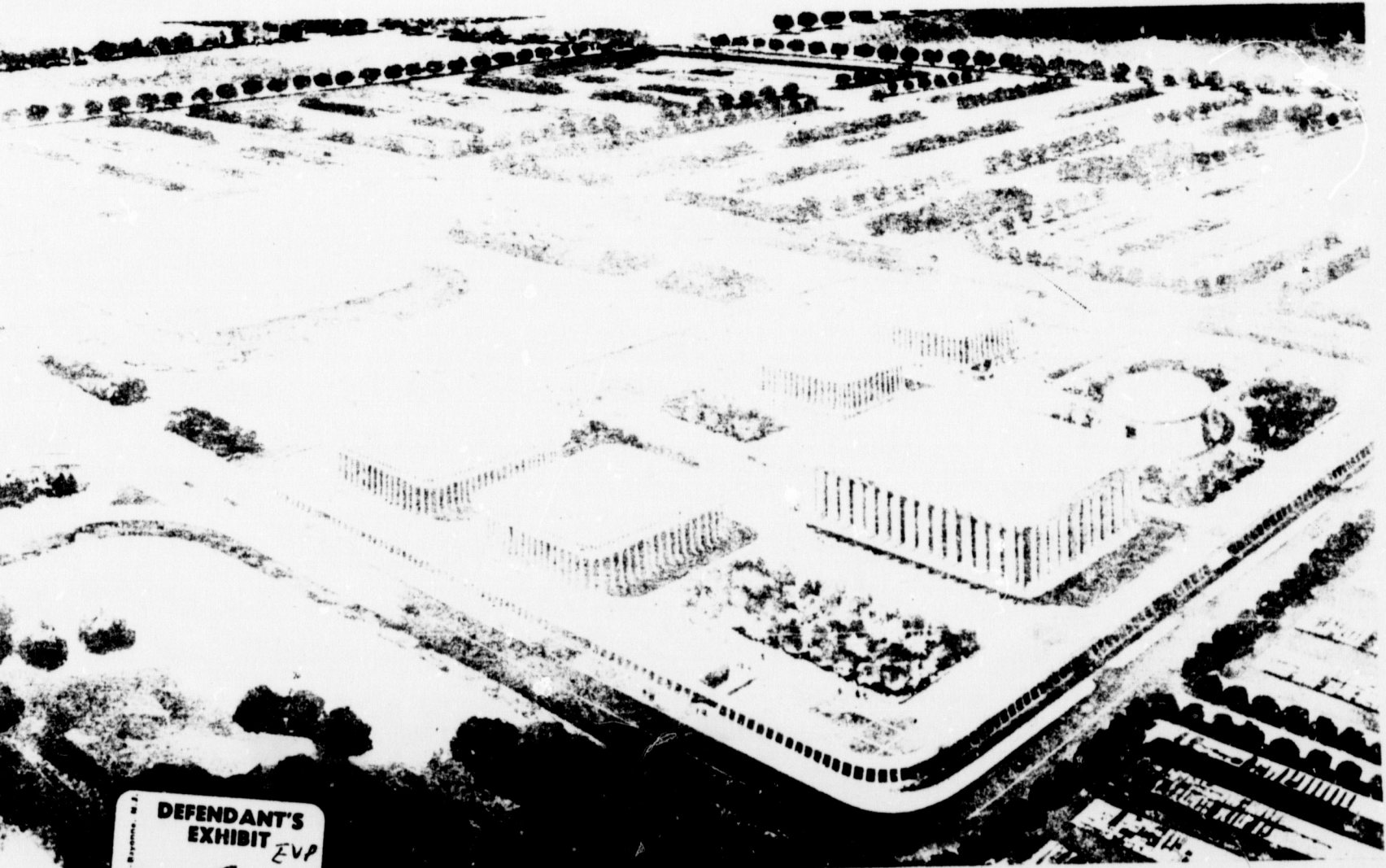
A RESOLUTION RATIFYING THE ACTION OF THE COMMISSIONER OF PUBLIC WORKS IN PREPARING MAP SHOWING REAL PROPERTY TO BE ACQUIRED FOR PUBLIC STRUC-

# JOHN F. KENNEDY EDUCATIONAL CIVIC AND CULTURAL CENTER

COUNTY OF NASSAU • EUGENE H. NICKERSON, COUNTY EXECUTIVE

Eugene F. Gibbons, Commissioner  
Department of Public Works

Byron Belt, Director  
Performing & Fine Arts



WELTON BECKET F.A.I.A. ARCHITECT





#### A MESSAGE FROM THE COUNTY EXECUTIVE

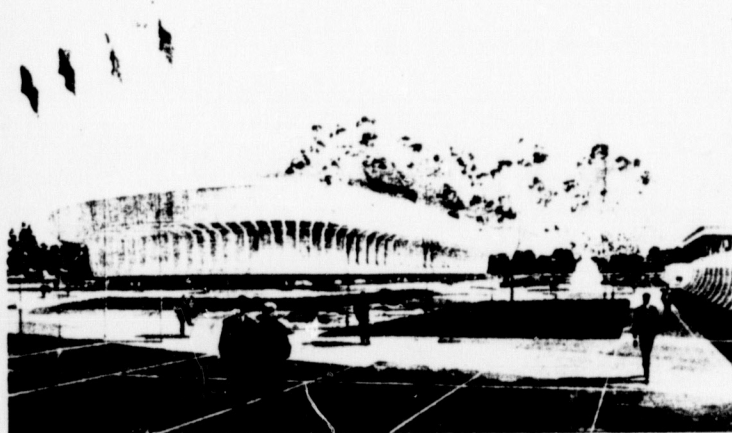
More than any single project ever undertaken by Nassau County government, the John F. Kennedy Educational, Civic and Cultural Center is destined to enrich the lives of our citizens. Through its facilities, young and old will be able to look at what men of the past have done and painted, read what they have written, hear the music they have composed and the songs they have sung. This soaring and inspiring complex of libraries, museums and auditoriums will give our people and community groups an unparalleled opportunity to express in contemporary terms the manifold capacities of the human mind and spirit.

*Eugene H. Nickerson*

#### AN INVITATION FROM THE DIRECTOR OF PERFORMING & FINE ARTS

We invite all the citizens of Nassau County to join with us in planning for the challenges of the future through active participation in the development of our Cultural Center. Within the concept of the superb facilities planned for the citizens of Nassau, we see the potential fulfillment of the vision of our late President of "An America which will not be afraid of grace and beauty...which commands respect throughout the world, not only for its strength but for its civilization as well."

*Byron Belt*



The Coliseum is a large arena with a fixed seating capacity of 10,000 seats. For those events which do not require the use of the entire arena floor, portable seats up to a maximum of 4,000 can be added, making the total capacity 14,000 for certain events. It is expected that the Coliseum will accommodate the following events - Sports: Ice Hockey, Basketball, Boxing, Wrestling, Track Meets. Exhibitions: Animal Shows, Flower Shows, Boat Shows, Home Shows, Auto Shows, Trade Fairs. Large Scale Entertainment: Circuses, Ice Shows, Roller Derbies, Balls and Banquets, Local and State Conventions.

#### **LIBRARY**

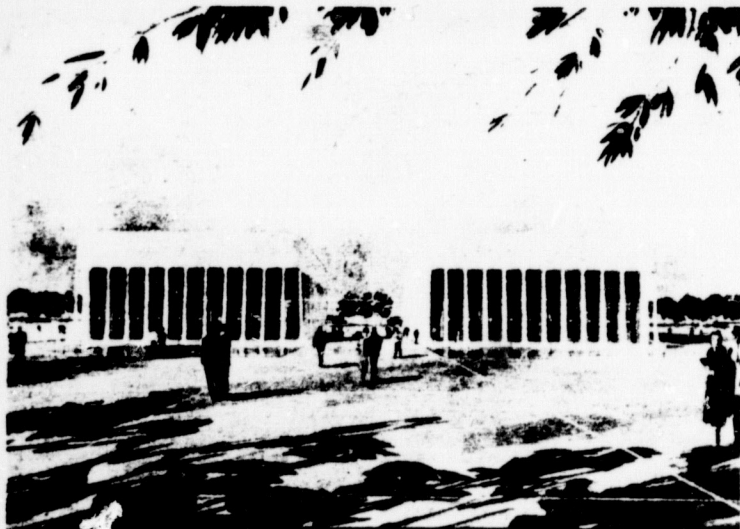
The structure that will house the Center's Library will provide space for technical, research and reference volumes for students of the County's high schools and colleges and for business and professional people. It will also provide space for the Nassau Library System. The Library is designed to contain approximately 750,000 volumes, covering subjects of Business and Industry, History and Biography, Language and Literature, Music and Art, Philosophy, Psychology and Religion, Science and Technology, Social Science and Education. Space will also be provided for periodicals and audio-visual materials.

#### **SOCIAL CENTER**

The Social Center Building serves a dual function. It will house the coordinating and control headquarters for the administrative functions of the entire Center, and also provide facilities for numerous functions to be utilized by the general public of Nassau County. Meeting rooms of all sizes will be available to the County's many civic, fraternal, and educational groups. Workshops and studios for the furtherance of education in the arts, crafts, dance and drama will be housed in this building for the use of the public.







MUSEUM OF FINE ARTS

The display of prominent works of art and art of current interest is a major element of the concept of the proposed Center. A building providing adequate space for this purpose will be the Museum of Fine Arts, which is designed to accomodate a permanent collection of art and sculpture, major traveling exhibits, and art shows featuring artists of Nassau County.

#### MUSEUM OF HISTORY, SCIENCE AND TECHNOLOGY

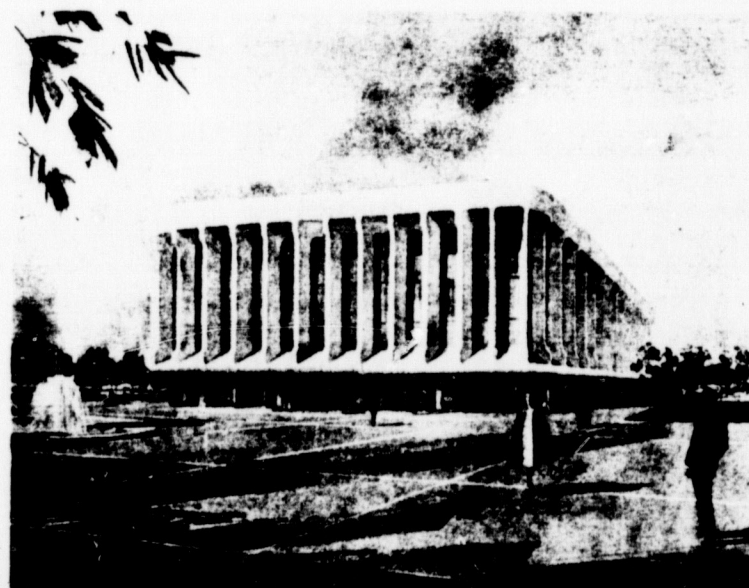
As its name implies, the Museum of History, Science and Technology will house both permanent and temporary exhibits covering the development of science, industry and transportation and the historical aspects of the natural, social, political and industrial development of Nassau County and Long Island.

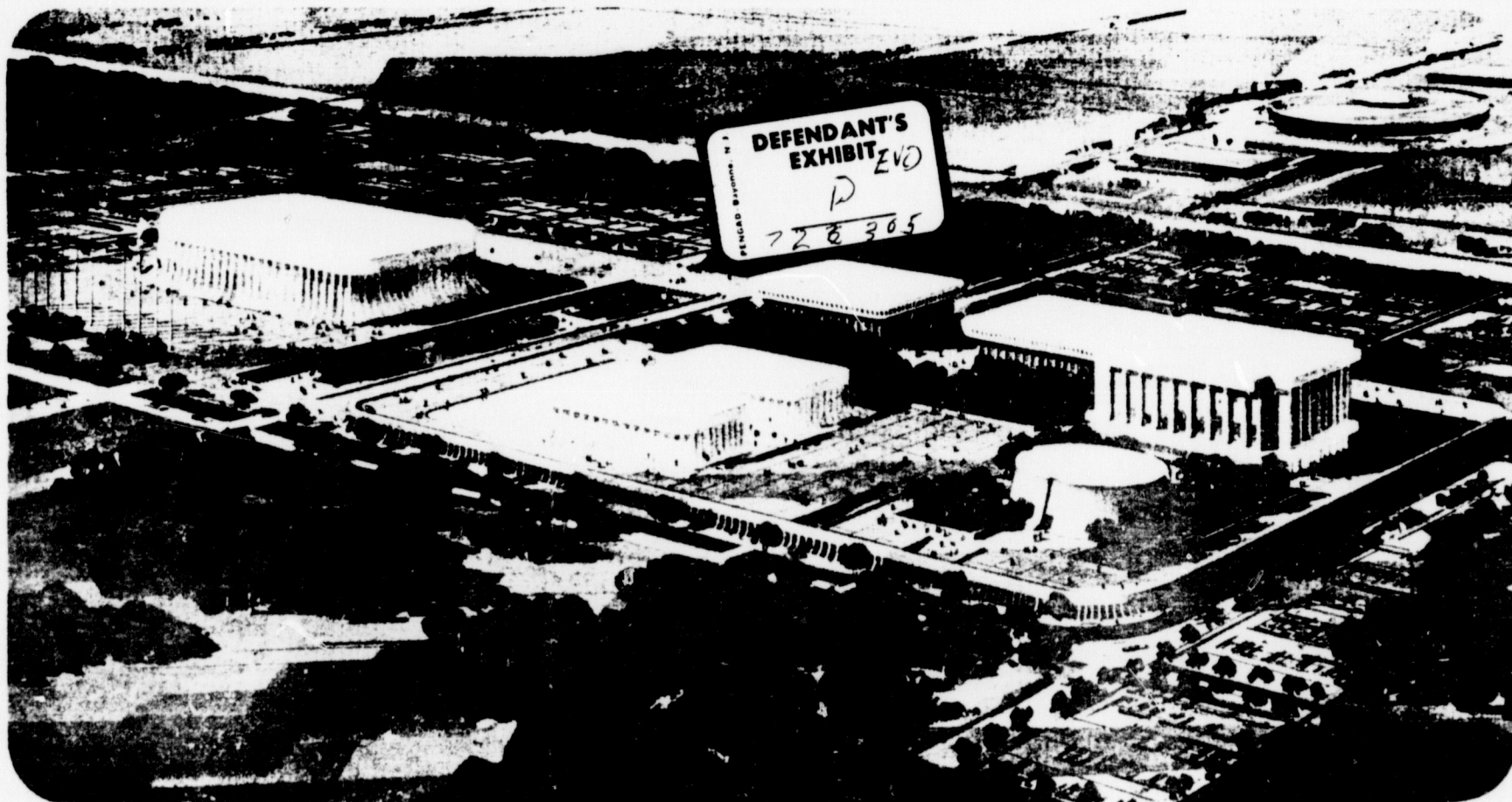
#### CONCERT HALL

The Concert Hall with a seating capacity of 2,100 will be the center of activity for the performing arts. Designed primarily to feature the performances of symphony orchestras, it will adequately serve as well the needs of opera, musical comedy, dance, legitimate theatrical productions, and recitals by outstanding soloists who command an audience greater than can be accomodated in the Forum Theatre.

#### FORUM THEATER

The Forum Theater is designed to provide a setting for musical and theatrical programs in an atmosphere of intimacy not found in the grander Concert Hall. It will have a seating capacity of 800 persons. The acoustics of this Theater will be most favorable for chamber music and recital concerts. The thrust stage concept, without a proscenium, will favor and encourage experimental productions of the theater and dance.





# JOHN F. KENNEDY EDUCATIONAL CIVIC AND CULTURAL CENTER

COUNTY OF NASSAU • EUGENE H. NICKERSON, COUNTY EXECUTIVE



The creation of this Center offers a means to enhance the cultural tradition and civic pride of the residents of Nassau County. Through its Social Center and Forum Theater, it will foster the ambitious programs of the numerous art and drama groups presently functioning in Nassau's communities, encourage a fruitful interchange of ideas between them and stimulate the formation of new groups. Its Library, Fine Arts Gallery, and Museum of Science, Industry, History, and Transportation, will not only attest to its citizens' concern for scholarship, but more importantly, will provide an inspirationally adequate environment within which its youth can prosper intellectually. With the physical accomplishment of its Concert Hall, great classical, operatic and contemporary music upon which the mind and soul are nurtured will be available to all.

In its Coliseum, athletics, ice shows, circuses, flower shows, indeed, the whole scale of family entertainment programs, will take center stage. Conventions and meetings for the largest numbers of the County's residents will here be provided with an adequate and distinguished place of assembly, and exhibit space will be available for a great variety of trade shows.

Arrayed on a massive podium in a spacious and landscaped setting, the sculptured structures that will house its Concert Hall, Forum Theater, Fine Arts Gallery, Museum and Social Center present a breathtaking view from any vantage point. Wide roads feed from the main thoroughfares into the Center, providing ease of accessibility to the buildings and the adjacent parking areas.

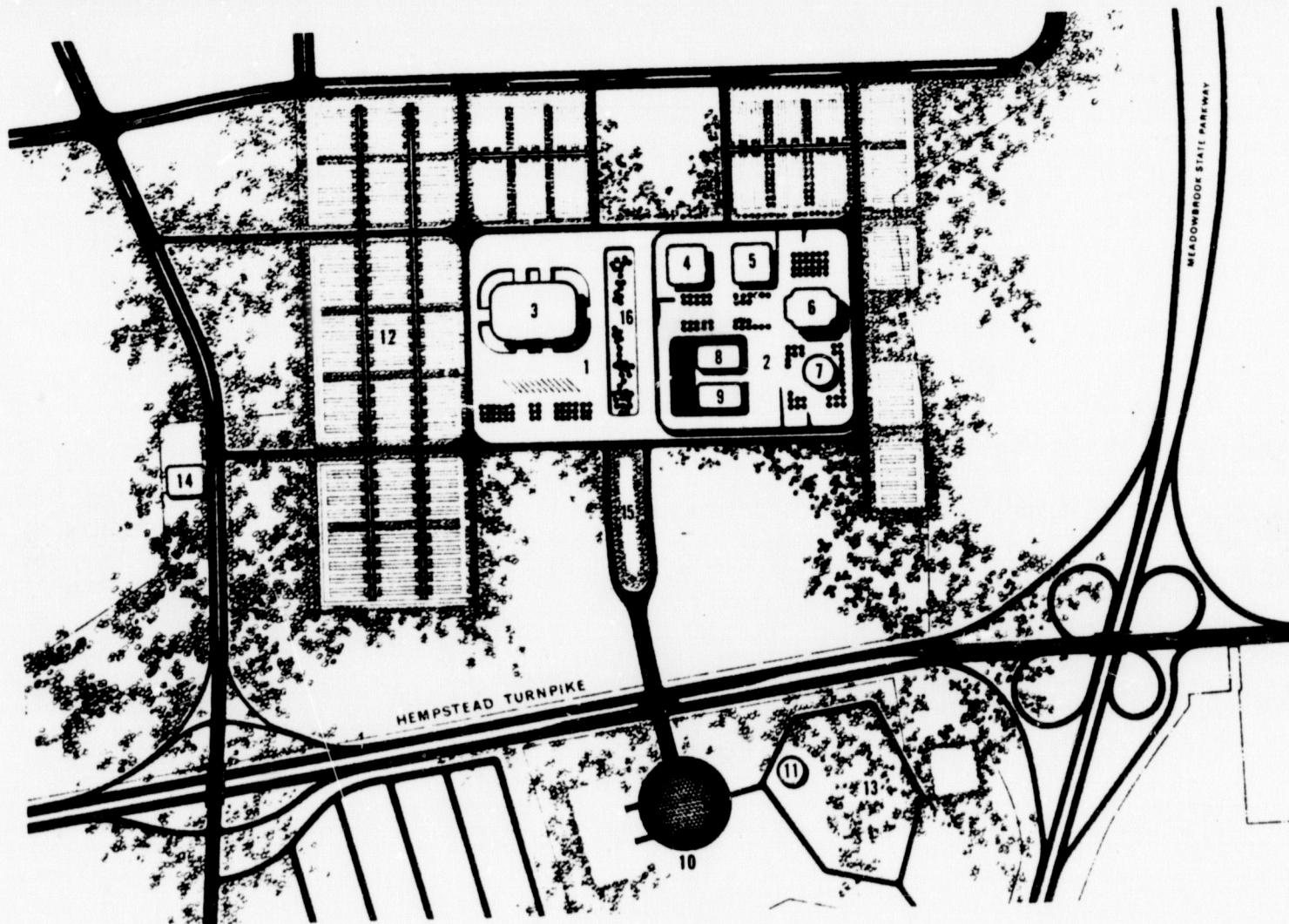
The concept of a podium offers distinct advantages, both aesthetic and practical. It neither towers above its surroundings, awesome and ostentatious, nor settles into its surroundings to become obscure and unassuming. It is a proudly elevated

acropolis, dignified in its execution, human in scale with spacious and uncluttered promenades for the spontaneous movement of large numbers of people.

Arranged on the podium are structures designed for human pursuits freed of the disruption and distraction of vehicular traffic. Conceived as a complex of facilities—each within walking distance of the others—the usual requirement that man ride or drive from one function to the next is eliminated. Covered parking is also provided beneath the podium itself, which is literally a "shell" upon which all the structures except the Coliseum are erected.

The massive Coliseum, greater in all its physical dimensions than any of the other structures in the Center, is placed next to the podium structure where its immense scale will balance the entire complex. It is set in a position of accessibility to the greater number of patrons, since the very nature of its intended functions—athletic contests, exhibitions, conventions and similar heavily attended events—will attract more people at a given period than will all the functions of the Center's other buildings. Its location further assures that Coliseum audiences, assumed generally to differ with the smaller bands of theater and concert patrons in both size and tempo, will neither engulf these smaller groups nor detract from their more intimate atmospheres. Although set apart, it nevertheless is integrated and remains unified with the entire complex by its mass relationship to the other structures, its use of compatible materials, and the physical connection of a grand staircase providing access between the concourse around the Coliseum and the podium level.

The estimated cost of the entire project is \$46,271,000. Operating costs will be substantially offset by income from the Coliseum, Concert Hall and Forum Theater.



## SITE PLAN

- 1 Coliseum Plaza
- 2 Podium
- 3 Coliseum
- 4 Library
- 5 Social Center
- 6 Concert Hall

- 7 Forum Theater
- 8 Fine Arts Gallery
- 9 Museum of Science, Industry,  
History, and Transportation
- 10 Botanical Garden
- 11 Planetarium

- 12 Parking Field
- 13 Arboretum, Children's  
Sculpture Garden
- 14 Central Plant
- 15 Main Entrance Drive
- 16 Sunken Garden



## COLISEUM

The Coliseum is a large arena with a fixed seating capacity of 10,000 seats. For those events which do not require the use of the entire arena floor, portable seats up to a maximum of 4,000 can be added, making the total capacity 14,000 for certain events. The size of the arena floor is large enough to accommo-

Sports: Ice Hockey, Basketball, Boxing, Wrestling, Track Meets.

Exhibitions: Animal Shows, Flower Shows, Boat Shows,  
Home Shows, Auto Shows, Trade Fairs.

date the largest sporting event. The structure will be roofed by clear space trusses so that no interior columns will occur in the seating areas and visibility from all seats will be unhindered. It is expected that the Coliseum will accommodate the following events:

Large Scale Entertainment: Circuses, Ice Shows, Roller Derbies,  
Balls and Banquets, Local and State Conventions.

## LIBRARY

The structure that will house the Center's Library will provide space for technical, research and reference volumes for students of the County's high schools and colleges and for business and professional people. It will also be integrated with, and provide space for, the administration of the entire County branch system. The Library is designed to contain approximately 750,000

volumes, covering the subjects of Business and Industry, History and Biography, Language and Literature, Music and Art, Philosophy, Psychology and Religion, Science and Technology, Social Science and Education. Space will also be provided for periodicals and audio-visual materials.

## SOCIAL CENTER

The Social Center Building serves a dual function. It will house the coordinating and control headquarters for the administrative functions of the entire Center, and also provide facilities for numerous functions to be utilized by the general public of Nassau County. Meetings rooms of all sizes will be available to the County's many civic, fraternal, and educational groups. Workshops and studios for the furtherance of education in the arts, crafts, dance and drama will be housed in this building for

the use of the public.

Exhibit space for events of current interest to the County's residents, not logically falling within the realm of the Center's Fine Arts Gallery or Museum, will find a place in this building. Here also will be located a restaurant adequate to serve the Center's visitors, with kitchen facilities equipped to handle banquets for civic and fraternal groups.

## CONCERT HALL

The Concert Hall with a seating capacity of 2,100 will be the center of activity for the performing arts. Designed primarily to feature the performances of symphony orchestras, it will adequately serve as well the needs of light opera, legitimate theatrical productions, and recitals by outstanding soloists who

command an audience greater than can be accommodated in the Forum Theater. "Continental" spacing of seats is planned in order to provide the greatest comfort to the audience. The building will also contain a restaurant of luxurious proportions and decor in keeping with the overall aspect of the building.

## FORUM THEATER

The Forum Theater is designed to provide a setting for musical and theatrical programs in an atmosphere of intimacy not found in the grander Concert Hall. It will have a seating capacity of 800 persons on one floor, without a balcony. The acoustics of this Theater will be most favorable for chamber music and re-

cital concerts. The shape of the stage and auditorium is to be a "theater-in-the-round" concept, without a proscenium, which will favor and encourage experimental productions of the theater and dance.

## FINE ARTS GALLERY

The display of prominent works of art and art of current interest is a major element of the concept of the proposed Center. A building providing adequate space for this purpose will be the Fine Arts Gallery, which is designed to accommodate a perma-

nent collection of art and sculpture, major traveling exhibits, and art shows featuring artists of Nassau County. A small auditorium to be used for lectures on art will also be included.

## MUSEUM OF SCIENCE, INDUSTRY, HISTORY, AND TRANSPORTATION

As its name implies, the Museum of Science, Industry, History, and Transportation will house both permanent and temporary exhibits covering the development of science, industry, and

transportation and the historical aspects of the natural, social, political and industrial development of Nassau County and Long Island.





President Lyndon B. Johnson is shown at Mitchel Field, Saturday, May 9, 1964 at the dedication of the John F. Kennedy Educational, Civic and Cultural Center as he unveils a plaque honoring the late President. Leading participants in the ceremony were (left to right) County Executive Eugene H. Nickerson, the Right Reverend Jonathan Goodhue Sherman, Suffragan Bishop of Long Island, and Gen. Cornelius W. Wickersham, Chairman of the Board of Trustees of Nassau Community College.

## MITCHEL FIELD PLANNING COMMITTEE

\*Eugene H. Nickerson  
*Chairman*

\*A. Holly Patterson, *Chairman, Executive Committee*

George B. Costigan

Leo Perlis

\*Palmer D. Farrington

\*Arthur Roth

Admiral Paul Foley, Jr.

David Starr

Thomas Goodfellow

John J. Tuohy

Bertram Harnett

William Woestendiek

*Ex officio*

Jack B. Weinstein,  
*County Attorney, Secretary*

Eugene F. Gibbons,  
*Commissioner of Public Works*

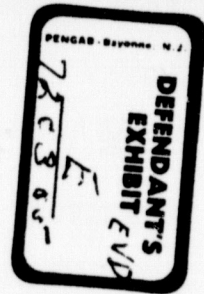
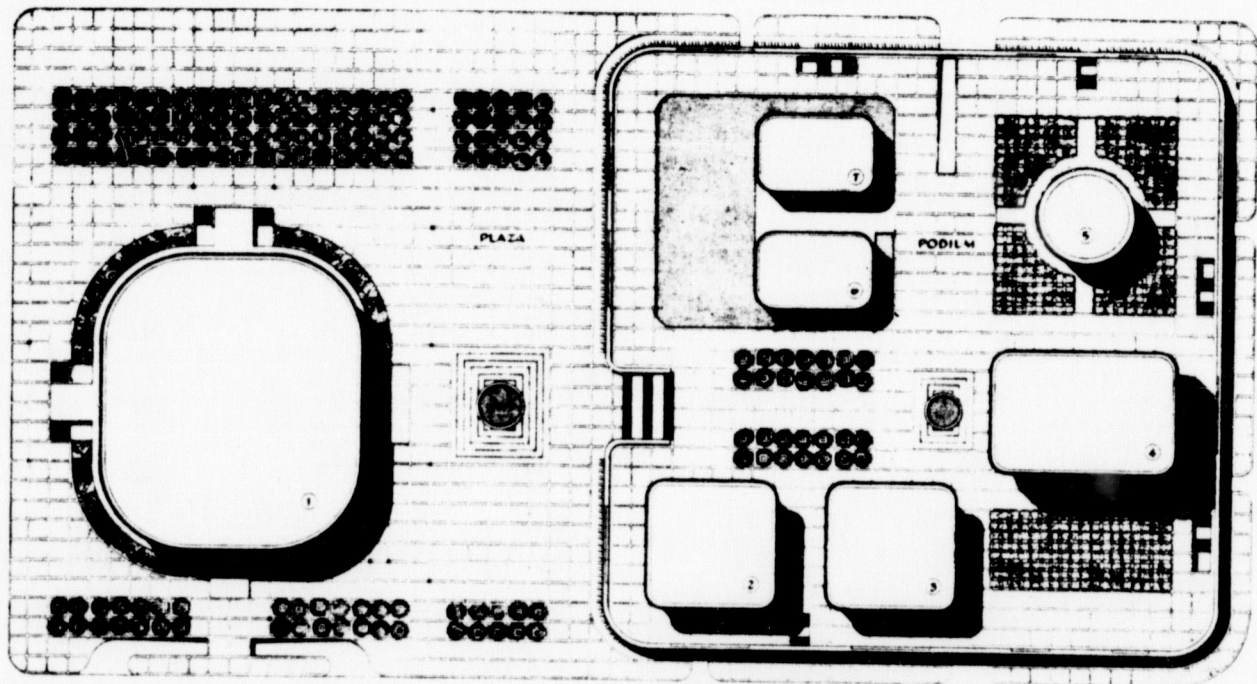
\**Members of Executive Committee*

WELTON BECKET, F.A.I.A. ARCHITECT

NASSAU COUNTY JOHN F. KENNEDY  
EDUCATIONAL, CIVIC AND CULTURAL CENTER

PODIUM LEVEL PLAN

WELTON BECKET FALJA, ARCHITECT  
FALJA & BECKET, CONSULTING ENGINEERS-STRUCTURE  
CONSULTING ASSOCIATES, CONSULTING ENGINEERS-M&E



JOHN F. KENNEDY EDUCATIONAL CIVIC AND CULTURAL CENTER

THE COUNTY OF NASSAU, NEW YORK

- 1 AUDITORIUM
- 2 LIBRARY
- 3 SOCIAL CENTER
- 4 CONCERT HALL
- 5 FORUM THEATRE
- 6 FINE ARTS MUSEUM
- 7 MUSEUM OF HISTORY, SCIENCE AND TECHNOLOGY

SCHEMATIC DRAWING  
1:1 2 MAY 1961  
SCALE 1" = 64'-0"



## A MESSAGE FROM THE COUNTY EXECUTIVE



A century ago the great English philosopher and art historian, John Ruskin, noted the vitality, beauty and strength of medieval societies in which art was not regarded as a frill but was an integral part of the everyday lives of all.

In our own time art historian and philosopher, Lewis Mumford, notes that suburbia needs a focal point, a place for people to interact socially and exchange ideas, if it is to capture the vitality peculiar to cities.

The two concepts - art as an integral part of everyone's daily life, and the establishment of a centralized meeting ground for social interaction and idea exchange - are the real foundation of the Nassau County John F. Kennedy Educational, Civic and Cultural Center planned for Mitchel Field.

It is a strong foundation not only for a cultural center, but for a society. Art, a chronicle of the ideas of man, prepares and maintains thinking, aware individuals when it is readily accessible for exposure, participation and interpretation. A central meeting place for idea exchange indicates and maintains a vital populace.

It is my belief that such vitality is crucial, for the society composed of thinking and actively involved citizens free to express ideas, is the society able to approach any problem, be it economic, political, sociological, ad infinitum.

For the above reasons, we have proposed that Nassau County build an Educational, Civic and Cultural Center dedicated to the late John F. Kennedy. I hope all of you will join me in aiding the project through to its completion.

Eugene H. Nickerson

Herbert J. Simins, Commissioner  
Department of Public Works

Byron Belt, Director  
Office of Performing and Fine Arts



**JOHN F. KENNEDY EDUCATIONAL CIVIC AND CULTURAL CENTER**

WILTON BICKET & ASSOCIATES ARCHITECTS  
 1000 N. W. 10th Ave., Suite 1000, Fort Lauderdale, Florida 33304  
 Telephone: (305) 461-1111

### **AN UNPARALLELED OPPORTUNITY**

For centuries man has struggled to create a better environment for himself and his children. Too often his efforts have been haphazard and poorly planned. We have suffered from a lack of vision, and from putting great vision into action when it has been available.

Today the people of Nassau County have an unparalleled opportunity to dream and dare wisely, to plan now for the cultural necessities of the immediate present, and for the future of our children's children.

In a truly pioneering undertaking, a great cultural center is underway as part of the development of property that was once part of the air base at Mitchel Field. The complex will contain seven buildings, as pictured above, and identified on the cover.

The need for cultural facilities is scarcely a debatable issue. Until Nassau County has museums to house the treasures of the past and present, proper facilities for the performing arts, and places where community arts groups can be adequately served, we cannot enjoy the full life which should be readily available to all of our citizens. The proper atmosphere to stimulate our creativity and appreciation is something which must be generated with intelligence and dedication.

Much is being done to develop the arts in our community, but much more must be done if we are to live the vision of a richer, fuller life. You, individually, can play an active role today. I join the County Executive in inviting your participation in the challenging adventurous years ahead!

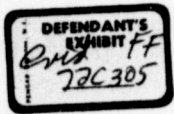
Byron Belt



## THE ARTS IN NASSAU COUNTY, 1966

- 250 non-profit community arts groups are actively at work; they involve 60,000 people.
- A first major outdoor arts fair and sale took place in Salisbury Park; 10,000 people attended.
- All seven colleges and universities mounted Faculty Loan Art Exhibits in the County Executive Suite, Mineola.
- There are no non-profit public art museums; there are 3 college galleries.
- All elementary and high school arts educators have united in the "Nassau Teachers for the Performing and Fine Arts Organization."
- Roger L. Stevens, Chairman of the National Endowment for the Arts, opened a symposium on "Money - its Legislation for the Arts."
- All non-profit community organizations working in the arts have demonstrated their support of the Nassau County Office of Performing and Fine Arts by joining in committees for purposes of communications and mutual benefit.
- At the request of an educated dance public, the numerous Nassau Dance Organizations are jointly sponsoring two choreography workshops for students and teachers.
- To initiate a new project, "Art for ALL," a children's art show was mounted at the A. Holly Patterson Home.
- To insure artistic quality in all public buildings a Fine Arts Committee has been appointed by County Executive Nickerson and is at work.
- Chorus singers were provided two "Summer Sings" under the direction of David Randolph and more than 2,500 people attended performances of Handel's "Judas Maccabaeus", conducted by Laszlo Halasz.
- Distinguished lecturers for County arts committees include Larry Aldrich, noted authority on contemporary art, and Clive Barnes, dance critic of the New York Times.

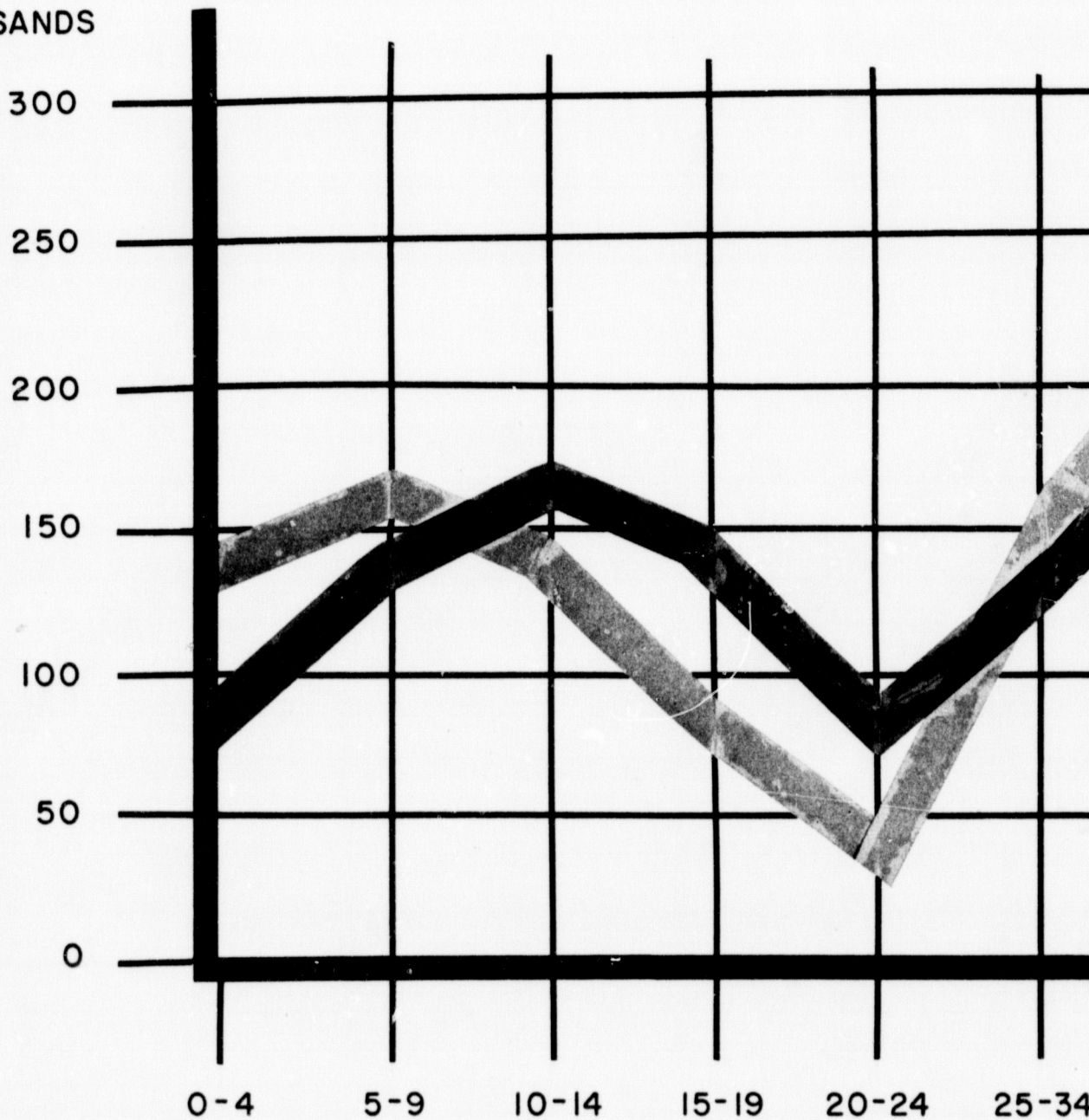




# AGE GROUP DI

1960

THOUSANDS





# DISTRIBUTION

1970





*Levitt and Sons*  
LAKE SUCCESS, NEW YORK

*Met on 8/8 at 2:30  
Have consulted with  
our consultants, &  
asked us questions.*

RICHARD J. MASE  
MANAGER-URBAN AFFAIRS

August 18, 1969

MEMORANDUM

To: Long Island Association  
Mitchel Field Task Force Committee

Mr. Norman Blankman requested that I report some of my thoughts to you regarding the presentation given us by Daniel Sweeney of the Mitchel Field Development Corporation.

In regard to the 1700 residential apartments reported to be scheduled for the initial phase, there appears a lack of planning with no timetable for any action. This is particularly more concerning when one views the complete efforts and plans for development of the commercial facilities, i. e., hotel, office building, etcetera.

The main problem area appears to be the expected impact on the school system. The Development Corporation has figures which indicate the additional classrooms required will not cost the community any capital expenditure in that the developers will be required to build schools as a part of the residential complex and donate the complete facilities for nothing, not even cost. In addition, taxes from the residences will add about \$5,000,000 per annum to the school district, which is a 50% increase over present revenues of \$10,000,000. This sounds like an extremely good deal and one no community could refuse. However, I have some doubts as to the economic feasibility of the above conclusions. These conclusions and my thoughts are based on the report prepared by Marcom Incorporated. If I am correct, the validity of the entire report and, therefore, the present development scheme should be questioned.

1. Conclusion: Developer will build classrooms for nothing, not even reimbursement of costs.

Opinion: Unfeasible.

The 1000 units are planned for middle income occupancy and 1200 units for low and moderate income. In the initial phase there will be a population of 5100 people of which 890 to 1305 will be of school age. For the purpose of this analysis we will split the school population at 1100. Each child requires 110 sq. ft., therefore, 121,000 sq. ft. of school facilities will be required. If the construction cost is \$35 per sq. ft. (the



*Will be reflected in rental agreed upon.*

average between 30 and 40 sq. ft. contained in the report) the developer will be expected to contribute \$4,235,000. If the total residential development costs \$60,000,000 the developer will contribute 7% of the gross cost. Under present government programs to provide low and moderate income housing, the maximum profit allowed is 10%. It is highly doubtful that a developer will work for a gross profit of 3% which will probably translate into a net profit of 1 1/2%.

If the entire project was conventionally financed, the idea of the developer doing this is a little more realistic but, I think, still basically unsound. Also, conventionally financed projects will only be of the luxury type and not address the problem of housing for families for moderate income.

The construction cost of \$30,000 to \$40,000 per unit, which does not include land, is very high and indicates an unfamiliarity and lack of knowledge about construction and government assistance housing programs.

*Taxes from entire initial phase not only from residences.*

2. Conclusion: Taxes from 1700 units will add 50%, or \$5,000,000, to school budget.

Opinion: Taxes of this magnitude, especially when county and other real estate taxes are added, will make rents excessive and unfeasible under current government assisted programs.

The \$5,000,000 spread among the 1700 units is a little less than \$300 per unit per year or \$25 per unit per month. The total revenues projected from taxes are \$7 - \$14 million. Based on average of \$10 million, the average tax per unit per year will be \$588 or approximately \$50 per unit per month. The projected school tax is 50% of total which in itself may be questionable. In any event, past history strongly shows that taxes as projected are not feasible and require tax abatement in order to provide housing for moderate income families.

Based on figures presented by Marcom and accepted by the Development Corporation, the following example is presented to illustrate my concern. The figures are based on one unit but total cost takes into consideration the total project.

Mortgage at \$35,000 @ debt service of 8.4% based on interest at 7 1/2% for 40 years	\$ 2940
FHA Mortgage Insurance Premium at .5%	175
<u>Taxes</u>	<u>600</u>
Administration Cost	10
Operating and Maintenance Cost	700
Reserves	<u>100</u>
Total Annual Rent	4615
Interest Subsidy at 1%	<u>1875</u>
Annual Subsidized Rent	2740
Monthly Subsidized Rent	\$ 228

Assuming this is a two bedroom unit, the maximum annual income for a family of four is about \$8,000. If 25% of that is applied to housing, the most the family can pay is \$2,000 per annum or about \$740 less than projected above. The project is not feasible.

*If only the \$600 error is  
deducted the rental approaches  
the \$2,000 max. even accepting  
his other figures.*

*Mason*

*0,000  
Corp lity*

**SELECTED PORTIONS OF  
TRIAL TRANSCRIPT\***

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\*Numbers at upper right hand corner are page notations  
from original transcript.



1  
2 in a nominal category here, if this Court does  
3 not ultimately direct the County of Nassau to  
4 give up its land to be used for housing, the  
5 certified classes -- then the Town of Hempstead  
6 would also be in the position where the case  
7 against the town would also be dismissed. We  
8 had submitted a memorandum, your Honor, and  
9 we would offer further proof with a law brief  
10 after the evidence has been submitted.

11 THE COURT: I will reserve.

12 MR. JASPAN: May I make my motion with  
13 respect to the class at this time?

14 THE COURT: You might as well.

15 MR. JASPAN: If your Honor please, I  
16 first move that you strike, in the certified class,  
17 references to persons looking to reside in Nassau  
18 County. When we argued the class motion, the  
19 plaintiffs relied upon the testimony of -- and  
20 the orientation of the two organizations involved,  
21 and the named plaintiffs, only two of whom remained  
22 in the case. None of these organizations claimed  
23 to have members involved who reside outside of  
24 the County and who would like to live in the  
25 County, there was not one word. Not one word in

1  
2 the complaint.

3 The plaintiffs themselves who are left as  
4 representatives of the class are Acevedo and  
5 Red Fern, both reside in Nassau County. They  
6 have no representation of any class of people  
7 who live outside of Nassau County.

8 The Baldwin counsel lives -- maintains  
9 its headquarters -- in Baldwin, and members from  
10 Baldwin and there is no allegation of any kind  
11 that they represent or their members include or  
12 represent people out of the class.

13 And the Long Island region of the NAACP  
14 is the same.

15 My first motion is to excise from the  
16 certified class those who live outside of Nassau  
17 County.

18 THE COURT: I will deny that at this time.

19 MR. JASPAN: The second part of my motion  
20 is for a streamlining of the class because the  
21 class reads, in its redundant form: all blacks  
22 or Spanish speaking persons residing or seeking  
23 to reside in Nassau County, and all persons  
24 residing or seeking to reside in Nassau County  
25 who are eligible for low income housing.

1  
2 I submit if we take out the first phrase  
3 you still have included in the second what we  
4 understand to be -- in other words if the class  
5 read, instead of all blacks and Spanish persons,  
6 etc., who are eligible, if it says all persons  
7 residing or seeking to reside who are eligible,  
8 we will have a clearer definition of the class.

9 THE COURT: The only reasons it is done  
10 that way by the Court was to make sure the class  
11 encompasses not only the words whites, blacks  
12 and Puerto Ricans --

13 MR. JASPAN: I understand. But there is  
14 a significance here. Are we dealing with --

15 THE COURT: The poor people.

16 MR. JASPAN: Yes, and I am respectfully  
17 asking the Court really at this time that the  
18 class be limited to what everybody here understood  
19 it to be, poor people from Nassau County eligible  
20 for low income -- without regard to color -- I  
21 don't think the Court intended to exclude the  
22 white people --

23 THE COURT: Absolutely not.

24 MR. JASPAN: I press the motion.

25 THE COURT: I think it is more explicit



1                   3                   Nickerson    direct

2                               now marked in evidence.

3                               (So marked.)

4                               MISS THOMPSON: I have no further questions.

5 CROSS-EXAMINATION

6 BY MR. JASPAN:

7                   Q           Mr. Nickerson, before the county made applica-  
8                               tion for the first piece of land of approximately 435 acres,  
9                               was there consideration given among the officials of Nassau  
10                              County as to what purpose it would be put to?

11                  A           Yes.

12                  Q           And will you tell me what processes were  
13                              involved in reaching some sort of conclusion?

14                  A           My recollection is that we had this committee and  
15                              we talked about it and talked about how best to go about  
16                              acquiring the tract.

17                  Q           When you say "how best to go about acquiring  
18                              the tract," are you implying that the reasons you ascribed  
19                              to the Federal Government were only for the purpose of  
20                              getting them to act, or that you were really telling them  
21                              what you thought to be the best use of that property?

22                  A           We had two considerations: One was the amount of  
23                              money that was involved that the county would have to pay,  
24                              which involved, as I explained on my direct testimony, public  
25                              benefit discount, and that was a consideration even though

Nickerson - cross

1  
2 we might not think -- might not have thought that the  
3 best use of the land would be in accordance with those pub-  
4 lic benefit discounts, but weighing the money on the one  
5 hand and the objectives, which we would have liked to have  
6 seen, on the other, those were the considerations that  
7 went into our application.

8 Q But didn't the county sincerely intend at the  
9 time it applied for this property to use it for the  
10 purposes which you assigned when you made application to  
11 the Government?

12 A I'm sure that -- I can only speak for my own  
13 intent. I can't speak for anyone else's. But as far as I  
14 personally am concerned, to the extent that we applied --  
15 that we made application to the Federal Government setting  
16 forth those uses, that that was our then -- my then intention.

17 Q Actually, did you acquire the property, the  
18 first piece, at a discount?

19 A No. We acquired part of it at a discount and part  
20 of it we had to pay the full value.

21 Q The 435 acres which was purchased for some  
22 \$13,000,000 was bought at full price, was it not?

23 A Yes.

24 Q And therefore, any restraints you may have had  
25 in the designation of purpose was not necessary in connection

with the acquisition of this piece?

A No, that isn't true.

Q What is true?

A To the best of my recollection, my recollection is that we tried to put in some park stuff in that first application in order to get a discount, and the GSA would not give us that discount.

Q But ultimately, did you acquire the first piece for park purposes?

A No, we acquired it free and clear, and we could make any use of it which we wished.

Q And did you announce to the public the purposes for which you were acquiring that property?

A I can't recall specifically, but I think I said that we could use it for any purpose that we saw fit.

Q Did there come a time when a resolution was submitted to the Board of Supervisors for the acquisition of this piece of property?

A I'm sure there must have been.

Q Do you know who prepared the resolution?

A I don't know specifically. Most of the resolutions are prepared, with few exceptions -- were prepared by the County attorney's office.

Q And in 1962, was that Mr. Bertram Harnett?



11 Nickerson - cross

A He was the County attorney then.

Q That is the gentleman to which you referred as a member of your impartial committee at one time in your testimony?

A He was one of the members.

Q He was a chairman, too, wasn't he?

A He was chosen by the Board members who are all nine Board members -- I think there were nine, as the chairman.

Q Now, I show you this paper and ask you if you can tell me what it is, just to identify it.

A Yes, I remember this. This is a --

Q Just identify it.

A It's a copy of a resolution approving a revised application that was prepared by Special Counsel for the acquisition of part of Mitchell Field.

(Continued on next page.)

fls Notes

BS:GA

T1R2

Nickerson - cross/Jaspan

MR. JASPAN: I offer it in evidence.

MISS THOMPSON: No objection.

THE COURT: Mark it.

THE CLERK: Copy of Resolution marked  
in evidence as Defendant's Exhibit A.

(So marked.)

BY MR. JASPAN:

Q For the purposes of the record, may I identify  
this as Resolution No. 712 of 1962.

Mr. Nickerson, would you look at Defendant's Exhibit A  
in evidence and tell me whether it sets forth the purpose for  
which you were acquiring the 435 acres.

A It does not set forth the purpose for which we acquired  
it.

It sets forth the purpose of the application that was  
made. And these three gentlemen, Judges Rosen, Poletti and  
Browley, my recollection of what happened is that they were  
brought in --

MR. JASPAN: I respectfully submit that  
is not the question I asked.

I asked you to look at that Resolution,  
Mr. Nickerson, and tell me what it said as to  
the purposes for which that land was acquired.

A Do you want me to read the Resolution? It does not show

1                   2                   Nickerson - cross/Jaspan

2                   the purposes for which we acquired the land, it shows the  
3                   purposes for which the application was then made.

4                   Q           Mr. Nickerson, my recollection is pretty good.  
5                   I assume you only testified a few minutes ago that you intended  
6                   what you told the Federal Government, and that you had no  
7                   mental reservations about that.

8                   A           Yes. But if -- Do you want me to explain it?

9                   Q           I am asking you whether that was what you said.

10                  A           Yes, sure.

11                  Q           Now, perhaps I can help you find what I am look-  
12                  ing for in this Resolution, Mr. Nickerson.

13                  One of the provisions of the "Whereas" clauses -- Let  
14                  me do it this way: The resolution clause reads as follows:

15                  "Resolved: That the Board of Supervisors hereby adopts,  
16                  ratifies and approves the said memorandum and revised applica-  
17                  tion prepared by special counsel for surplus Federal lands at  
18                  Mitchell Field for education, public health, recreation, civic  
19                  and cultural uses of Nassau County"; and further resolved that  
20                  memorandum should be transmitted to the people who were author-  
21                  ized to receive it.

22                  Did I read the Resolution?

23                  A           I don't know. I didn't have a copy.

24                  Q           You take a look at it.

25                  A           What is your question?



Nickerson - cross/Jaspan

Q Did I read accurately --

A I believe you did.

Q All right. So that, sir, the announced purposes for the purpose of acquiring this property from the Federal Government, and the result of whatever thought went into this application, is that it was to be for education, public health, recreation, civic and cultural uses; isn't that right?

A That was what that application was for. That was not --

Q Did you get the land on the basis of that application?

A No.

Q This is the revised application, and you did not --

A No. That application included parks purposes, which would have given us an additional discount of 50 percent, which we did not -- The GSA did not approve that application. They required us to purchase, without public benefit discount, the major portion of the land, and we then took it free and clear to do with what we thought best.

Q Now, Mr. Nickerson, before we muddy the waters, if land is acquired by a municipal corporation for park purposes, it cannot be alienated for other purposes, isn't that correct?

4 Nickerson - cross/Jaspan

A I don't know that to be a fact. If you acquire it from the GSA for park purposes, they put certain restrictions on you that you can't use it for other than park purposes.

Q Right. And if you dedicate land for park purposes within the County, it is inalienable for any other purpose without permission of the State Legislature.

A I dōdn't know that -- if true.

Q In any event, the purpose is announced here of other than park purposes, when you talk about education, public health, civic and cultural use, you intended those purposes for the Mitchell Field, did you not?

MISS THOMPSON: Objection, the document speaks for itself, and is a Resolution of the Board of Supervisors, not of Mr. Nickerson.

MR. JASPAN: It is signed by Mr. Nickerson.

THE COURT: He may answer.

THE WITNESS: Could you read the question?

(Question read.)

THE WITNESS: Yes. I think public health also got a benefit discount. Maybe some of the others, too.

Q After you acquired the land, did you hire a firm by the name of Welton Beckett for the purpose of developing some plans for the use of that area?

5 Nickerson - cross/Jaspan

1 A They were retained, I think for the development of the  
2 civic and cultural center.  
3

4 Q Were they retained to develop all or a portion  
5 of the 435 acres which you acquired in the first acquisition?

6 A My recollection is that they were retained solely to  
7 develop the civic and cultural center, which would have in-  
8 cluded the Coliseum, the Concert Hall, and so forth.

9 Q Were these to be at Mitchell Field?

10 A Yes.

11 Q Isn't that the first concrete step you took for  
12 the development of Mitchell Field?

13 A Yes.

14 Q And that was to hire the firm -- Did you charge  
15 them with a duty as to what they were supposed to do?

16 A I think there was a letter, yes.

17 Q Do you have a recollection of what you said to  
18 them?

19 A I think that our assignment to them was that they were  
20 to develop a cultural and civic center.

21 Q And that would be consistent with the terms of  
22 the application which you had filed with the Government?

23 A Well, that was only for a portion of the field. Yes,  
24 it would be consistent.

25 Q By the time December of 1963 had come, you had



1                   6                   Nickerson - cross/Jaspan

2                   already acquired this property, had you not?

3                   A           I have forgotten the date.

4                   Q           If I show you this resolution, will it refresh  
5                   your recollection?

6                   A           Yes, it must have been before December of 1963.

7                   Q           The County was now the owner of the property?

8                   A           Yes.

9                   Q           Now, the document I showed to you, is that a  
10                  Resolution of the Board of Supervisors of Nassau County,  
11                  signed by you?

12                  A           Yes, a copy of it.

13                               MR. JASPIN: I offer it in evidence.

14                               MISS THOMPSON: No objection.

15                               THE CLERK: Document marked as Defendant's  
16                  Exhibit B.

17                               (So marked.)

18                               MR. JASPIN: For the purposes of the record,  
19                  I will identify Exhibit B as Ordinance No. 230 of  
20                  1963.

21                               I would like to read into the record the  
22                  resolution part

23                               "That so much of the land acquired from  
24                  the United States Government located in the area  
25                  known as Mitchell Field Air Force Base to be

7

Nickerson - cross/Jaspan

designated for Nassau County's educational, civic and cultural center, and not assigned for the use and purposes of Nassau County College, be, and hereby is, named John F. Kennedy Educational Civic and Cultural Center."

Q Did there come a time when reports were issued with respect to the John F. Kennedy Cultural Center?

A Yes.

Q I show you these three documents, and ask you whether these were documents issued out of the County while you were the County Executive?

A Yes.

MR. JASPAN: I would like to have them marked in evidence.

MISS THOMPSON: Can these be identified as to the time?

MR. JASPAN: I will ask the witness.

Q Perhaps you can help us, Mr. Nickerson.

A What is your question?

Q Approximately when were these documents issued?

A This is one which has in red ink on it "office copy, Nassau County, John F. Kennedy Educational, Civic and Cultural Center," and refers to the arts in Nassau County, 1966, I think was issued in 1966. The other two were issued -- I know

8

Nickerson - cross/Jaspan

1  
2 were issued before that because they show Eugene Gibbons as  
3 Commissioner of Public Works.

4 The first one I referred to shows Herbert Simmons  
5 as Commissioner of Public Works. He came after Gibbons,  
6 so I know these two are earlier than this one, and the '66  
7 one.

8 (continued on next page.)  
9  
10  
11  
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15  
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18  
19  
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21  
22  
23  
24  
25



1 Nickerson-cross/Jaspan

2 MR. JASPER: All right, I'll offer them  
3 separately. Would that be all right? Perhaps  
4 this is -- all right.

5 The first one is marked J.P. -- John  
6 F. Kennedy Educational Civic and Cultural  
7 Center, County of Nassau, Eugene F. Nickerson,  
8 County Executive.

9 THE CLERK: Marked in evidence as  
10 defendant's exhibit C.

11 (So marked.)

12 MR. JASPER: The second one has the  
13 same legend on it but is in -- in color. It has  
14 a blue face.

15 THE CLERK: Marked in evidence as  
16 defendant's exhibit D.

17 (So marked.)

18 MR. JASPER: The third one also entitled  
19 Nassau County, John F. Kennedy Educational  
20 Civic and Cultural Center, which apparently  
21 was issued around 1966, has a picture of Mr.  
22 Nickerson on it. That's the best way I can  
23 identify that.

24 THE CLERK: Marked in evidence as  
25 defendant's exhibit E.

1 Nickerson - cross/Jaspan

2 (So marked.)

3 BY MR. JASPAN:

4 Q Now, Mr. Nickerson, look at these exhibits  
5 C, D and E and tell me what variety of purposes was  
6 suggested for the use of Mitchell Field by those exhibits?  
7 They are listed there, like a laundry list.

8 A For a small portion of Mitchell Field --

9 Q Before you designate it as "small," how  
10 small?

11 A I don't know the dimensions, but this exhibit D  
12 gives you a picture of it, of the area that it covers. It  
13 shows a site plan for a coliseum, concert hall, forum  
14 theatre, a couple of museums, a social center and a theatre  
15 in the round.

16 Q Would you look at the other two exhibits and  
17 see if there are any other purposes which are assigned for  
18 the development of Mitchell Field?

19 A No. These relate solely to that center.

20 Q All right.

21 Now look -- all right. Those were the  
22 purposes which were assigned by these reports?

23 A Were assigned -- that was the purpose of these  
24 reports, to show this civic and cultural center.

25 Q Right.

A Proposed cultural civic and cultural center.

1 Nickerson - cross/Jaspan

2 Q Mr. Nickerson, you are quoted in the -- in a  
3 newspaper article which I will show you and I'll ask you  
4 if you are quoted accurately.

5 First let me show you this and ask you if you  
6 recall it at all.

7 MR. BELLMAN: Is there a question before  
8 the witness?

9 MR. JASPAN: I just want to see if he  
10 can identify the paper.

11 A Yes, I recall this.

12 Q All right.

13 Now, having refreshed your recollection, did you,  
14 in fact say, at the time of the takeover -- I have to read  
15 this --

16 A Yes.

17 MISS THOMPSON: Could you mark it for  
18 identification, please?

19 MR. JASPAN: Surely.

20 THE CLERK: Document marked for identification  
21 as defendant's exhibit F.

22 (So marked.)

23 Q I was asking you, Mr. Nickerson, whether you  
24 in fact were quoted accurately by Newsday on June 28, 1963,  
25 when you said, "One of the most important questions was that



1 Nickerson - cross/Jaspan

2 of priorities among, among the various cultural, civic and  
3 educational facilities proposed for the site"?

4 A I nonestly don't recall, but it's likely I said  
5 that.

6 Q Newsday always reflects you accurately,  
7 doesn't it?

8 A It did in those days.

9 Q And did you also, on the same day, say that  
10 among the high priority projects is a 2,000 student technical  
11 and trade high school, for which 25 Mitchell areas have  
12 been tentatively earmarked?

13 A 25 acres?

14 Q The story says, "Mitchell areas." I guess they  
15 mean "acres."

16 And a central reference library and headquarters  
17 for the Nassau Library system?

18 A May I see that?

19 Q Surely.

20 Let me read the rest of it.

21 And did you also say that under consideration  
22 was a children's zoo, a botanical observatory, an art  
23 gallery, a museum of natural history, a planetarium, a  
24 museum of science and technology and a theater?

25 A I remember we did talk about the technical and trade

1 Nickerson - cross/Jaspan

2 high school and I remember there was a tentative feeling on  
3 the part of the committee to put that up in the northeast  
4 corner. I may be wrong on that, though.

5 There was also -- there was also a thought for a  
6 central reference library, and that's reflected in the -- in  
7 exhibit C, D and E.

8 I remember the art gallery, which also appears in  
9 C, D and E. And the theater. I don't recall our thinking  
10 of the children's zoo in Mitchell Field. I think we thought  
11 of that going into then Salisbury Park.

12 And I don't recall our thinking of the museum of  
13 natural history or the planetarium or the museum of science  
14 and technology as going into Mitchell Field.

15 Q The story is inaccurate then?

16 A No, I wouldn't say that. It says "other projects  
17 under consideration include," but I don't recall their  
18 being under consideration by the Mitchell Field planning  
19 Committee. I think the story may be accurate.

20 Q Well, I show you, sir, another article from  
21 Newsday, dated August 9, 1962, and ask you whether, in fact,  
22 this refreshes your recollection as to your list of items  
23 under consideration at that time for inclusion in the  
24 Mitchell Field Development?

25 MISS THOMPSON: I object, your Honor.

1 Nickerson - cross/Jaspan

2 Why can't Mr. Jaspan simply ask Mr.  
3 Nickerson what was under consideration in a  
4 particular point of time?

5 THE COURT: Whether he had it under  
6 consideration.

7 A This is about a year earlier.

8 Q Yes.

9 THE COURT: I will allow it. I will  
10 allow it.

11 You recall I asked him the question when,  
12 during his tenure in office, did he first have  
13 the foreseeability that he would have low  
14 cost housing?

15 This is all in compliance with it.

16 MR. JASPAN: If your Honor please,  
17 what we're trying to establish is that the manner  
18 in which the County is developing Mitchell Field  
19 has a rational basis in history and in fact, and  
20 it was not designed to exclude people of any  
21 kind.

22 THE COURT: I understand that.

23 MR. JASPAN: And that I am going to show  
24 that everything we had ever planned to put into  
25 Mitchell Field came out of Mr. Nickerson's



1 Nickerson-cross/Jaspan

2 recommendations and others who worked for him.

3 A (continuing) It says that there was a program  
4 contained in a letter from me to the GSA, and I honestly --  
5 if you can show me that letter? It will perhaps help.

6 I don't recall that letter at this time.

7 Q Well, let me show you an article from the  
8 Long Island Press, dated August 9, 1962, and ask you whether  
9 this refreshes your recollection as to the number of acres  
10 involved in these projects, whether in fact it was small  
11 and what you were putting in there?

12 A Might I say, if you -- and I don't recall, if  
13 I had the letter, I'd identify it.

14 Q If you don't believe the Press, would you believe  
15 the Times?

16 A I don't believe or disbelieve, Mr. Jaspan. I'm  
17 trying to answer your questions honestly.

18 Q All right.

19 Let me take this away.

20 Now I show you this booklet and ask you if  
21 you know what it is?

22 A Yes. This was prepared by Wilton-Beckett for the  
23 County.

24 THE COURT: When was that prepared, do  
25 you know?

1 Nickerson - cross/Jaspan

2 THE WITNESS: I don't see a date on it,  
3 your Honor. This was in the early stages, I  
4 think.

5 Let me see if I can find a date.

6 Q Was it prepared after the land was acquired?

7 MISS THOMPSON: He doesn't have a date so  
8 he can't answer that question.

9 A I think it was prepared after the land was acquired,  
10 though. Yes. There is a date on this, which came -- I  
11 believe this addendum number 1 came after the main volume.

12 Q Let's deal with the main volume first.

13 A I'm trying to identify this date and I think this  
14 will be helpful. The addendum is dated August 15, 1965.  
15 This bigger one was earlier.

16 Q This is the report that was submitted to you  
17 by Welton-Beckett?

18 A I believe it was addressed to the Mitchell Field  
19 Planning Committee.

20 Q Well --

21 A Of which I was a member.

22 Q It was a county document?

23 A Yes.

24 MR. JASPAN: I offer it in evidence.

25 MISS THOMPSON: No objection.

1 Nickerson - cross/Jaspan

2 THE CLERK: Booklet marked in evidence  
3 as defendant's exhibit G.

4 (So marked.)

5 Q Now, Mr. Nickerson, I ask you to look at  
6 defendant's exhibit G and particularly -- let's see if they  
7 number these pages.

8 Can you mark this page, so that we can  
9 refer to it, as G-1, or something?

10 THE CLERK: Page marked in evidence as  
11 defendant's exhibit G-1.

12 (So marked.)

13 Q Now, you testified, of course, that you  
14 didn't remember how much land was to be used for the John  
15 F. Kennedy Educational, Civic and Cultural Center?

16 I'm showing you this report from Welton-  
17 Beckett and ask you if this would refresh your recollection?

18 A As to the amount of acreage?

19 Q Whether it was all or part of the acreage  
20 acquired from the Government? And I -- if I can help you?  
21 This is what you -- this is what you acquired. If you  
22 look at it. And these are the --

23 A What was your question?

24 Q Whether you can now refresh your recollection  
25 as to whether the cultural center was to occupy all or part



1 Nickerson - cross/Jaspan

2 of the land acquired from the Federal Government?

3 A No, it was not.

4 Q What does that book say?

5 A This was what Welton-Beckett suggested. It certainly  
6 was not in my mind.

7 Q No. This is what the report recommended?

8 A This is -- yes. It speaks for itself.

9 Q All right. Before I get to the addendum.

10 Did you continue to press for the development  
11 of the field as the John F. Kennedy Cultural Center?

12 A Not of the entire field. I did press for the  
13 development of that center in a portion of the field, yes.

14 Q And weren't you pressing for the development  
15 of the center in accordance with the Welton-Beckett plan?

16 A No. I mean, as far as the architectural aspects of  
17 it are concerned, the podium and so forth, set of buildings  
18 they had there, yes.

19 Q Now I show you -- I withdraw that.

20 Was there a time when you were writing  
21 articles for the Long Island Press every Sunday?

22 A Yes.

23 Q Is this one of them?

24 What's the date of it, Mr. Nickerson?

25 A There is no date. There is a penciled date.

1 Nickerson - cross/Jaspan

2 Q What date is up there?

3 A It's January 14, 1968. I don't know whether that's  
4 a correct date or not.

5 Q Well, that's many years after the issuance  
6 of the Welton-Beckett report?

7 A What's your question now?

8 Q Well, whether you were pushing for the  
9 development of the J.F.K. center as late as 1968?

10 A Absolutely.

11 Q All right. I'd like to offer this in  
12 evidence.

13 MISS THOMPSON: No objection.

14 THE CLERK: Newspaper article marked  
15 in evidence as defendant's exhibit H.

16 (So marked.)

17 Q I show you what's been marked as -- or labeled  
18 here as the addendum number 1 to the John F. Kennedy  
19 Educational Civic, cultural center, a report on the  
20 schematic plans by Welton-Beckett, and ask you whether  
21 that's another one of the documents submitted to the  
22 County by Welton-Beckett?

23 A Yes.

24 Q And was that in furtherance of this cultural  
25 center development idea you were talking about?

1 Nickerson-cross/Jaspan

2 A Yes. This was -- this went -- came with that exhibit,  
3 the big one, or came after it, and purported to show  
4 schematics with respect to the actual buildings.

5 MR. JASPAN: I offer it in evidence.

6 MISS THOMPSON: No objection.

7 THE CLERK: So marked as defendant's  
8 exhibit I in evidence.

9 (So marked.)

10 Q Mr. Nickerson, did you regard the development  
11 of the cultural, civic and educational center as the  
12 rational use for Mitchell Field?

13 A A part of it.

14 Q Yes. And -- I withdraw that.

15 Now, I call your attention, Mr. Nickerson,  
16 to exhibit I, which sets forth on one of these drawings  
17 the following proposed uses. Coliseum. Do you believe that  
18 a coliseum should be at the --

19 A Yes. I started to build it.

20 Q Right. It's now functioning; is it not?

21 A Yes.

22 Q A library?

23 A Yes.

24 Q A social center?

25 A Yes.



Nickerson - cross/Jaspan

Q A concert hall?

A Yes.

Q A forum theater?

A Yes.

Q A fine arts museum?

A Yes.

Q A museum of history, science and technology?

A Yes.

Q Did you also believe, Mr. Nickerson, or state from time to time, that one of the prime purposes for the development of land in Nassau County was to have open space?

A From time to time.

Q Yes.

And did you publicly state that one of the rational uses for Mitchell Field was to have park area?

A At one or more times, yes.

Q Well, do you still believe that's a rational use?

A Not so much any more.

Q Not so much land, or not so much that you don't believe?

A Not so much land, and I'm not sure that that's the appropriate place for it. In fact, I don't think it is.

1 Nickerson - cross/Jaspan

2 Q Did there come a time, Mr. Nickerson, when the  
3 County acquired 66.9 acres of land from the Government for  
4 park purposes?

5 A I believe we did.

6 Q And did the deed provide that it -- if you  
7 didn't -- did not use it for park purposes, it would revert  
8 to the Government?

9 MISS THOMPSON: Do you have the deed?

10 MR. JASPAN: Yes, we do. We'll show it  
11 to you.

12 THE COURT: All right. Take a recess at  
13 this point.

14 MR. JASPAN: All right.

15 THE WITNESS: I think that --

16 THE COURT: Step down.

17 (Recess taken.)

18 (continued on the next page.)  
19  
20  
21  
22  
23  
24  
25

S:pc  
ke 3/1

Nickerson - cross/Jaspan

(After recess.)

EUGENE NICKERSON, recalled as a  
witness, having previously been duly sworn,  
resumed the stand and testified further as follows:

CROSS EXAMINATION

BY MR. JASPAN: (continued)

Q I show you this deed. I believe you had a  
chance to look at it during the recess. And I ask you  
whether that is the deed under which the County acquired  
from GSA some 67 acres of land for park and recreational  
use?

A Yes, I believe it was.

MR. JASPAN: You have looked at it?

MISS THOMPSON: Yes.

MR. JASPAN: I offer it in evidence.

THE COURT: Just read it into the record.

THE CLERK: Deed marked in evidence as  
defendant's exhibit J.

(Document referred to, being a deed,  
was received and marked defendant's exhibit  
J in evidence.)

MR. JASPAN: Now, I would like to read  
into the record the restriction which appears



Nickerson - cross/Jaspan -

on page one.

"The above described premises shall be forever used and maintained as and for public park and public recreational areas and for those purposes only in accordance with the approved program contained in offer to purchase an application dated September 11, 1967, as amended by letters dated January 2 and 16, 1968, submitted on behalf of the County of Nassau as proved by report prepared by Northeast Regional Office, Bureau of Outdoor Recreational Department of the Interior, dated January, 1968, incorporated herein by said reference with the same force and effect as if herein fully set forth..."

Paragraph 3:

"The party of the second part, county of Nassau, will not sell, lease, assign or otherwise dispose of the premises except to another local government agency that the Secretary of the Interior or his successor in function is satisfied can assure the continued use and maintenance of the property for a public park and public recreational area purposes ..."

Q Now, in connection with the acquisition of that

Nickerson-cross/Jaspan

land there came a time when the County of Nassau made the formal application referred to?

A Yes.

Q Was the formal application contained in exhibit 9, this book, designated Nassau Center?

A This is the -- for the park land?

Q For 151 acres.

A That is the one that you just referred to in the deed?

Q Well, that is part of it. Let me straighten it out. Let's forget about that deed for the moment.

A I don't recall whether this was a part of it or not.

Q I am asking you to look at exhibit 9 --

A Yes.

Q -- and I am calling your attention to the following language which appears on some unnumbered page towards the rear beginning with the words, "...by this application..."

Will you read it for us, please?

A Yes.

"...by this application, Nassau County hopes to acquire the remaining 153 acres for industrial use, and park land. All applicable discounts available under Federal statutes are requested..."

1 Nickerson-cross/Jaspan

2 Q Now, did the County get additional land as a  
3 result of that application?

4 Just my questions, Mr. Nickerson, please.

5 A We did apply for the additional land. We did get  
6 additional land.

7 Q Now, is industrial use for any part of  
8 Mitchell Field a rational use of that land?

9 A Absolutely.

10 Q As a matter of fact, weren't you among those  
11 who said that to maintain the facilities for the benefit of  
12 all the people in the County, we have to have ratables in  
13 there?

14 A I don't recall saying that. I remember thinking and  
15 saying that we should have industry there.

16 Q Now, industry provides a number of benefits,  
17 does it not?

18 A Yes.

19 Q What are those benefits?

20 A Jobs primarily. And from the planner's standpoint,  
21 it means people there to relate to the center in the course  
22 of the day, so that people --

23 Q Does it provide tax revenue to the school  
24 district and to the County?

25 A Yes.



1                   Nickerson-cross/Jaspan

2                   Q       That is an important point too, is it not?

3       A       Yes, I think that is so.

4                   Q       Now, were there recommendations while you  
5       were County Executive, for the inclusion of office buildings  
6       in Mitchell Field?

7       A       Yes.

8                   Q       Do you remember to what degree the recommendation  
9       was?

10      A       I don't understand your question.

11                  Q       Well, how much office space was there?

12      A       I don't recall.

13                  Q       Was it millions of square feet?

14      A       I don't recall.

15                  Q       Well, would you regard the use of portions of  
16       the premises of Mitchell Field for office space as a  
17       rational use?

18      A       Absolutely.

19                  Q       Now, you testified before that a resolution  
20       of the Board of Supervisors, if I recall it correctly, had  
21       the effect of adopting a plan prepared by the Mitchell Field  
22       Task Force for the development of Mitchell Field?

23      A       I don't recall that testimony.

24                  Q       No, let me show you the resolution again --  
25       Let me get the number for you.

1 Nickerson-cross/Jaspan

2 MR. BELLMAN: That is exhibit number 13.

3 Q (continuing) Plaintiff's exhibit number 13.

4 Do you recall testifying about plaintiff's exhibit number 13?

5 A I recall identifying it.

6 Q Now, I call your attention to the second page  
7 of the resolution signed by you on October 10, 1965 and  
8 approved by the Board of Supervisors, and call your attention  
9 to the third paragraph which is the first resolution  
10 paragraph.

11 Would you read that please, sir?

12 A Do you want me to read it aloud?

13 Q Please do.

14 A "Resolved that the County Executive is hereby  
15 authorized and empowered to file an application and a  
16 comprehensive plan approved by the Mitchell Field Planning  
17 Committee for the utilization of the said approximate 191  
18 acres with the General Services Administration..."

19 Q So that resolution that dealt only with the  
20 191 acres for which application was being made in 1966?

21 A I believe so.

22 Q No, when you were applying for land -- I am  
23 sorry -- when the County was applying for land in the  
24 northwest corner of Mitchell Field, did you have any  
25 competition?

1 Nickerson-cross/Jaspan

2 A In the northwest corner?

3 Q Well, the extra acreage we are talking about.

4 A Well, I am sure there must have been.

5 Q Was there competition from the Town of  
6 Hempstead?

7 A I believe so, yes.

8 Q I show you a resolution adopted July 26, 1966  
9 from the Town of Hempstead and ask you if you are familiar  
10 with that.

11 A No, I have never seen it.

12 MR. JASPAN: Mark it for identification.

13 Q Who was the County executive -- I am sorry --  
14 who was the presiding supervisor of the Town of Hempstead in  
15 1966?

16 A I think it was Mr. Caso.

17 THE CLERK: Document marked for identification  
18 as defendant's exhibit K.

19 (Document referred to was received and  
20 marked Defendant's exhibit K for identification.)

21 Q Now, I show you a news release and ask you if  
22 this refreshes your recollection as to what happened with  
23 respect to the application, or whether there was an appli-  
24 cation by the Town of Hempstead?

25 (Witness examines document.)



1 Nickerson-cross/Jaspan

2 A I recall now there was an application by the Town  
3 of Hempstead.

4 Q Isn't it a fact, Mr. Nickerson, that the  
5 Town of Hempstead applied for some of that land and wanted  
6 to use at least 55 acres of it for housing, and you opposed  
7 that?

8 A In that part of the field, yes.

9 Q Well, you opposed the application by Mr. Caso  
10 to use the land for housing?

11 A In that 191 acres we were acquiring.

12 Q You wanted it for industry use and for park  
13 land and open space; isn't that a fact?

14 A That part of the field, yes.

15 MR. JASPAN: I would like to introduce  
16 this -- let me mark it for identification.

17 THE WITNESS: I haven't seen that  
18 release. I can't identify that release.

19 MR. JASPAN: I'm only marking it for  
20 identification because Mr. Caso will be here.  
21 But what I am saying is does this refresh your  
22 recollection and you say it did.

23 THE CLERK: Document marked for  
24 identification as defendant's exhibit L.

25 (Document referred to is received and

Nickerson-cross/Jaspan

marked defendant's exhibit L for identification.)

Q Now, did there come a time, Mr. Nickerson, when the suggestion was made by you or someone else that Mitchell Field would be a good place for a county seat?

A I remember we considered that and rejected it. So someone must have suggested it.

Q Well, was it considered seriously at any time?

A We had someone do a study, if I recall, to -- as to whether it made sense.

Q And was it Arthur D. Little?

A I don't remember.

Q Well, I show you this book and ask you whether this was a study.

(Hanging.)

(Witness examines document.)

A I honestly don't recall this. But someone must have told me about it if I didn't see it.

Q Well, was the study ordered by the County or Mitchell Field Development Corporation?

A No, I think -- Yes, it shows it was a report to the Mitchell Field development Corporation. I don't recall seeing it though.

MR. JASPAN: I offer it in evidence.



1 Nickerson-cross/Jaspan

2 MISS THOMPSON: There is no foundation.

3 THE COURT: He doesn't recall seeing it.

4 MR. JASPAN: He says it was the Mitchell  
5 Field Development Corporation --

6 THE WITNESS: I said it is addressed.  
7 On the cover it shows it.

8 MR. JASPAN: We will mark it for  
9 identification. We will have a foundation in.  
10 You will get it.

11 THE CLERK: Marked for identification  
12 as defendant's exhibit M.

13 (Document referred to was received and  
14 marked defendant's exhibit N for identification.)

15 Q Now, I want to revert again, Mr. Nickerson,  
16 to whether your understanding was that all 435 acres were  
17 to be used or only a portion for the educational, recreational  
18 and cultural center.

19 I show you a Newsday story dated June 14, 1963,  
20 and I call your attention particularly --

21 THE COURT: Is that a Long Island Newspaper,  
22 Newsday?

23 MR. JASPAN: That is a small paper out there.

24 THE COURT: I don't know. I am not going  
25 out to Long Island to find out.



1 Nickerson-cross/Jaspan

2 MR. JASPAN: It is the largest newspaper  
3 in the world, I think.

4 THE COURT: I do not mean to be facetious.  
5 I really didn't know. I know of the Long Island  
6 Press.

7 MR. HYMAN: It is like the Staten Island  
8 Advance, Judge.

9 THE COURT: I am not going into semantics  
10 between the two papers.

11 MR. JASPAN: No, this was an Alicia  
12 Patterson-Captain Guggenheim paper.

13 THE COURT: Go ahead.

14 Q Now, does this refresh your recollection as  
15 to whether you did not, in fact, say that you were going to  
16 use all of the 435 acres for an educational center and  
17 cultural center?

18 A No.

19 Q The story is inaccurate?

20 A No.

21 (continued on the next page.)  
22  
23  
24  
25

Nickerson - cross/Jaspan

Q Well, what does the story say?

MISS THOMPSON: I object.

THE COURT: To what?

MISS THOMPSON: He can't testify to what the story says.

THE COURT: Well, I read something in the paper, and I know I didn't say it. I won't call them up because then they will say something else I didn't say. They are mad because I never talk to them.

Q Does that refresh your recollection?

A No.

MR. JASPAN: All right, we will mark it for identification. That is all on that question.

THE CLERK: Document marked for identification as Defendant's Exhibit N.

(Document referred to was received and marked Defendant's Exhibit N for identification.)

THE COURT: You say, you don't recognize the story? That is possible, too, you know.

THE WITNESS: I recognize the context of that story. I don't remember, your Honor, saying We are going to turn all of this into a civic and cultural center. And that was never in my mind.



2

Nickerson - cross/Jaspan

THE COURT: Well, at the time when you read it, did you do what I do, say nothing, or did you call them up and object to it?

THE WITNESS: Oh, no, I'm not saying that story is inaccurate.

THE COURT: Okay. You are a much better politician than I am.

Q In 1968, were you campaigning for the quick development of the Reference Library at Mitchell Field?

A I was urging it.

Q I show you this story and ask you whether this refreshes your recollection.

MISS THOMPSON: There is no recollection to refresh.

Mr. Nickerson answered the question.

THE COURT: Show it to him and see if he knows the story.

A Yes, I think this is accurate, that I was moving ahead on plans for a Central Reference Library.

Q And you regarded that as a rational use for some of the land at Mitchell Field?

A Absolutely.

Q I show you this paper and ask you whether the handwritten portions are your handwriting (handing)?



Nickerson - cross/Jaspan

3

A No.

Q Do you recognize the handwriting?

A No.

MR. JASPAN: Just mark it for identification.

THE CLERK: Document marked for identification as Defendant's Exhibit O.

(Document referred to was received and marked Defendant's Exhibit O for identification.)

MR. JASPAN: You can't look at it. It is only marked for identification. It will confuse you. (Addressing Mr. Bellman.)

THE COURT: Not here. If you came before me in the State Court, you can't look at anything. But over here, identification is the same thing as evidence, almost. They just pass it around.

Q Mr. Nickerson, were you a delegate to the 1967 Constitutional Convention?

A No.

Q Did you make suggestions for inclusion in the work of that Convention, certain proposals?

A Yes.

Q And was one of the proposals that Counties be given housing powers?

1 4 Nickerson - cross/Jaspan

2 A Yes.

3 Q Was that incorporated in the package proposed  
4 by the Constitutional Convention?

5 A Yes.

6 Q As a matter of fact, the whole package went  
7 down by a vote of the electorate in the following general  
8 election, did it not?

9 A Yes.

10 Q The County does not now have housing powers, is  
11 that right?

12 A Not general housing powers. With respect to land which  
13 the County owns, I am not sure of the answer to that question,  
14 and I haven't researched it.

15 Q Now, Mr. Nickerson, you talked about the popula-  
16 tion in the motels --

17 THE COURT: You are talking about the  
18 County not being able to put up housing projects?

19 THE WITNESS: They cannot create a Housing  
20 Authority.

21 Q Now, you talked about population in motels.  
22 What was the highest number of individuals in motels during  
23 your administration?

24 A I don't recall. Within the hundreds.

25 Q Well, was it about 323?

Nickerson - cross/Jaspan

5

A I think that may be low.

Q How bad was it?

A I don't know. I remember it being in several hundreds. The figure that sticks in my mind is something over 500 families.

Q Do you know, sir, what the population in motels is today?

A No.

Q Would it refresh your recollection if I told you it is around 100 or less?

A No, I would have no knowledge.

Q You have no recollection.

Now, you testified about a proposed contract, or a contract with the Able Development Corporation.

Was that for the construction of senior citizen housing?

A That is what they were proposing, yes.

Q And I think if you examine the Exhibit, you will find it is for ten and a half acres.

MISS THOMPSON: Plaintiff's Exhibit 16.

Q (continuing) -- Plaintiff's Exhibit 16.

Is that what it says, Mr. Nickerson?

A The attachment recites, among other things, containing 10.501 it looks like acres.

Q Now, do you know how many units were proposed



6

Nickerson - cross/Jaspan

in that?

A I have forgotten.

Q Do you know whether it was more than 250?

A I don't recall.

Q Would you regard the construction of some senior  
citizen housing as a rational use for Mitchell Field?

A Yes.

MR. JASPAN: I have no further questions.

THE COURT: Do you have any questions?

(continued on next page)

1  
2 KENNETH R. BEDFORD, called as  
3 a witness, first being duly sworn, testified  
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. BELLMAN:

7 Q Mr. Bedford, where do you reside?

8 A 93 Willow Avenue, Hempstead, New York.

9 Q That is in Nassau County, is that correct?

10 A Yes, it is.

11 Q Where are you employed?

12 A Fairchild Republic Company.

13 Q What is your position there?

14 A Employee relations administrator.

15 Q How long have you been working for Fairchild?

16 A Approximately 18 months or more.

17 Q Mr. Bedford, are you affiliated with the  
18 plaintiff Long Island Region NAACP?

19 A Yes, I am.

20 Q Could you tell us what your affiliation is?

21 A I was regional director. Presently the New York  
22 State Finance Chairman.

23 Q And could you tell me the period of time that  
24 you were regional director?

25 A For a period of two years and some odd months.

Bedford - direct

A First of all, I would like to explain the role that Long Island Region plays and how it comes about playing any particular role in a given area.

Each branch is charged with a responsibility of establishing housing committees. These housing committees are then responsible to pinpoint any problems as far as housing or as far as descrimination on the part of any individual who is pressed for some reason or another by a landlord or an owner.

These problems are then submitted to the Long Island Region and the Long Island Region in conjunction with its State conference, investigates these problems and determines whether or not there is justification for class action if the need should arise.

Q Do you know the number of members that belong to the chapters in the Nassau region?

A In Nassau there are approximately in excess of 2,000 members.

Q Membership is open to both blacks and whites, is that correct?

A Yes, it is.

Q Do you have any idea as to the racial makeup of the 2,000 some members?

A No, I have never done a head count.





9

Sedford - direct

fact that they are black, if they can afford housing other than low income housing, they are not within that class.

MR. BELLMAN: First of all, the class does not define the relevancy of the question. I am asking a generalized question, even if it doesn't relate to the class, and I maintain it relates to the class, but I am asking -- I don't understand why the objection is forthcoming in terms of class action.

THE COURT: You may answer.

A If I recall the question, Do I know of any minorities who work in Nassau County but live in the metropolitan area? Yes, I do.

Q They live there because they are unable to find housing in Nassau County?

MR. JASPAN: I object to that question.

There is no proof that the witness knows.

THE COURT: He can't draw that conclusion.

Q I am asking the witness, Do you know that?

THE COURT: Do you know that as a fact?

THE WITNESS: I don't know --

THE COURT: If he has a factual statement, tell us, give us a name.

10

Sedford - direct

THE WITNESS: I said, economically they cannot afford an apartment in the Nassau area.

MR. JASPAN: I move that that be stricken.

THE COURT: They may not be able to afford one in New York City, either, unfortunately for both places. I agree with you, something should be done for them.

What is the problem, and how to do it, that is the biggest problem. There is no question in my mind. I have no problems with that.

Q Has your organization been involved at any time with the problem of finding housing for welfare or public assistance recipients who are forced to reside in motels?

A Yes, we have. From time to time, we have tried to help find housing for the people who were placed in motels.

(continued on next page.)



7 Bedford - cross

of this witness.

CROSS-EXAMINATION

BY MR. JASPAN:

Q Mr. Bedford, where do you live?

A 93 Willow Avenue, Hempstead.

Q And do you own that house?

A Yes.

Q How big a house is it?

A Two-family.

Q And how many rooms?

A Eleven.

Q And how many rooms do you occupy?

A Six.

Q And who lives there with you?

A My wife and myself.

Q And is that maintained by you?

A Yes.

Q And is it in good condition?

A Yes, it is.

Q And who lives upstairs?

A I have a family of four that lives upstairs.

Q And --

A Three children and one -- a mother.

Q Is that also maintained by you?

1           8           Bedford - cross.

2           A           Yes, it is.

3           Q           And is it in good condition?

4           A           Yes, it is.

5           Q           Now, on the street you live, are there both  
6 black and whites?

7           A           Presently, yes.

8           Q           Yes. About how many black families and  
9 how many white families?

10          A           There are approximately four black families living  
11 on the street now.

12          Q           Four black and how many white?

13          A           I'd say approximately 18 white families.

14          Q           And what is the relationship, if any,  
15 between the black families and the white families? Is  
16 there any friction?

17          A           There is no hostility.

18          Q           No. There is no hospitality?

19                    Now, are you familiar with the counties open  
20 housing act?

21          A           Yes, I am.

22          Q           And do you know what branch of the county  
23 administers that act?

24          A           Yes, I do.

25          Q           Which one is it?

1 9 Bedford - cross

2 A The Nassau County Human Relations Commission.

3 Q Is that Mr. James Rice and Linda Levy?

4 A Yes.

5 Q And have they responded to complaints which  
6 may have been made from time to time?

7 A Yes.

8 Q And are they active in enforcing the law?

9 A Yes.

10 MR. JASPAN: I have no further questions.

11 MR. HYMAN: No questions.

12 MR. JASPAN: One other thing.

13 Q Did the NAACP bring a lawsuit against the  
14 Town of Oyster Bay?

15 A Yes.

16 Q And what is the basis for that lawsuit?

17 A The basis is a housing charge, where there are  
18 no housing set aside -- no housing established for the  
19 middle or low income.

20 Q Let me frame it differently, Mr. Bedford,  
21 and ask you -- tell me whether it is correct.

22 Isn't there an allegation that there is  
23 land in Oyster Bay but that exclusionary zoning has prevented  
24 its use?

25 A Yes, it is on zoning.



10 Bedford - cross

Q Yes. And that there is land for the development of additional housing?

A Yes. If the zoning was changed.

MR. JASPAN: Thank you.

THE COURT: All right.

MR. BELLMAN: I have one more question, your Honor.

REDIRECT EXAMINATION

BY MR. BELLMAN:

Q It is true, is it not, that your organization has brought this suit in a representative capacity, representing the members of the organization; is that correct?

A Yes.

THE COURT: All right. You may step down. Thank you.

MISS THOMPSON: Henry Liu.

THE COURT: Is he a short witness?

MISS THOMPSON: He'll be fair long.

THE COURT: He'll be very long?

MISS THOMPSON: Fairly long.

THE COURT: Fairly long? How long is that?

MISS THOMPSON: An hour.

THE COURT: No. I have to recess by 4:30.

CROSS EXAMINATION

BY MR. JASPAN:

Q Mr. Kunz, you have talked of regional planning.  
What is the relevant region in this area?

A In this case, the region we are referring to is Nassau  
and Suffolk Counties.

Q Planning should be on the basis of both the  
consideration of the needs of both Counties together?

A That's correct.

Q When the Bi-County plan was submitted, did it  
deal only with Mitchell Field?

A No, it dealt with the entire geographic area of Long  
Island.

Q As a matter of fact, how many references were  
there to Mitchell Field in this whole report.

A I cannot cite each one, but different subjects, trans-  
portation, for example, or the over-all plan --

Q In terms of housing, what was the specific  
statement contained in your Bi-County plan?

A That some housing should be provided at the centers of  
activities, such as Mitchell Field.

Q That was merely used as one example, was it not?

A That's correct.





1  
2 Q You made no recommendation that there must be  
3 housing at Mitchell Field, did you?

4 A The land-use plan indicated a pattern for high-density  
5 housing on it.

6 Q And you were using Mitchell Field as one example  
7 of a place where there could be housing?

8 A That's correct.

9 Q You talked about all the crowding in Nassau  
10 County?

11 A Yes.

12 Q I show you Table 37 of the Nassau County compre-  
13 hensive plan, which is Plaintiff's Exhibit 10, which I believe  
14 you testified you read before it was issued?

15 A That's correct.

16 Q Even though the Board members never read it.  
17 And I ask you to look at the reference to over-crowding. Tell  
18 me what it says, the Table 37?

19 A Yes. "The overcrowded occupied housing units in  
20 Nassau County are 4.0."

21 Q How many Counties and Areas are mentioned in  
22 that table?

23 A Sixteen Counties, not counting New York City.

24 Q Sixteen Counties and New York City?

25 A New York City would be seventeen.

1 Q It would be more by my count, but in any event

2 A Five more Counties, if you counted them separately.

3 Q Sixteen Counties and New York City. What was

4 the range of overcrowding?

5 A From 10.3 in New York City to 4.0.

6 Q Which had the best conditions with respect to

7 overcrowding in all of this region?

8 A Nassau.

9 Q Nassau County, right?

10 A Correct.

11 Q Better than all the neighboring Counties?

12 A Correct.

13 Q Better than Suffolk County?

14 A Yes.

15 Q Better than Westchester?

16 A Yes.

17 Q So we are the best in that area, aren't we?

18 A No challenge on that.

19 Q You talked about pockets of poverty. What did

20 you mean by that?

21 A These are areas with a large percentage of families

22 that have incomes below the poverty level.

23 Q You related to total communities. Is that the

24 way the information shows up in the reports from which you

25

1  
2 derived that information?

3 A The material is both upon a total community basis and  
4 on a census tract basis.

5 Q As a matter of fact, it is a census tract which  
6 influenced your comments with respect to which was a poverty  
7 community and which was not.

8 A Yes. I pointed out which communities of various census  
9 tracts with a poverty problem were in.

10 Q Did you say Hempstead had a poverty problem?

11 A The village of Hempstead, yes.

12 Q What kind of a village is that in terms of the  
13 type of construction, in terms of the people; describe it.

14 A A community of -- a village of 40,000 people with a  
15 black population of about one-third, and it's got a mixture  
16 of single-family homes on typical 50 by 100 foot lots, and  
17 six-story apartment buildings at the other range, with housing  
18 for low-income families, middle income and upper income.

19 Q It is a pretty modern area, isn't it?

20 A The central portion of the community is redeveloped.  
21 The south portion is awaiting renewal because of its obsolete  
22 nature.

23 Q And it is being renewed by municipalities, is  
24 that correct?

25 A The village is renewing it.





1  
2 Q And the central region was renewed by a municipi-  
3 pality?

4 A That's correct.

5 Q Which municipality did that?

6 A The village.

7 Q Local government?

8 A Correct.

9 Q How many tracts run through the village of  
10 Hempstead?

11 A Seven.

12 Q And how many of those tracts show pockets of  
13 poverty?

14 A One of the seven is in the highest category, and a  
15 second one is in the next highest category.

16 Q You didn't say that when you testified before,  
17 you said the village of Hempstead is a pocket of poverty.

18 You don't mean that, do you?

19 A No. I said one tract in the village of Hempstead, when  
20 -- I believe the question was, what tracts were indicated,  
21 and what communities are they in?

22 Q Would you say now that Hempstead is a pocket of  
23 poverty, the village of Hempstead?

24 A It's got a pocket of one area in here, the southwestern  
25 portion of Hempstead village has a pocket of poverty.

1 Q Now, Mr. Kunz, you must remember, and I am not  
2 being presumptuous, the Judge lives in another area and does  
3 not know Hempstead.  
4

5 You might be creating the impression that Hempstead is  
6 a poverty-stricken area. It's not, is it?

7 A It has a problem within its borders, let's put it that  
8 way.

9 Q You say, forty thousand people live in the  
10 village of Hempstead?

11 A That's correct.

12 Q How many people would you say are below the  
13 poverty level?

14 A In this area, I don't know.

15 Q You don't know?

16 A I can't state the figure.

17 Q But it's one tract out of seven. Would it be  
18 both white and black?

19 A I will look it up if you want the number.

20 Q Surely.

21 A Yes. It would be both white and black, but the area  
22 that is indicated as the greatest amount is the one that is  
23 predominantly black area in the community. It is around 600  
24 in the village of Hempstead.

25 Q So now we have 600 people who may be classified



1 as --

2 A 600 families.

3 Q 600 families below the poverty level in a village  
4 of 40,000 people; is that correct?  
5

6 A That's correct.

7 Q And that is sufficient to characterize the whole  
8 village as a poverty area?

9 MR. BELLMAN: Objection.

10 THE COURT: He said, one tract.

11 MR. JASPAN: Now he says it. That isn't  
12 what he said before when he testified or direct.

13 Q If I went through other areas, would we come up  
14 -- not necessarily with the same percentages, but the same  
15 point that you were picking out, tracts within other areas.

16 A With the exception of Lakeview, where the entire tract  
17 is classified as a poverty area.

18 Q Lakeview is a black community, is it not?

19 A That's correct.

20 Q What kind of houses do they have there?

21 A Almost all single family, or two-family.

22 Q And they are nice houses, aren't they?

23 A Some are very good.

24 Q It's a very nice community, isn't it, physically?

25 A It's not bad.

1 Q It is not a question of needing housing in  
2 Lakeview, is it?

3 A It's a question of overcrowding in Lakeview.

4 Q You say we have the lowest overcrowding in this  
5 whole region of 17 counties and the City of New York?

6 A According to this figure, 9.2 percent of all the housing  
7 units in Lakeview are overcrowded.

8 Q Who made that survey?

9 A The Census Bureau.

10 Q They didn't have experts go out?

11 A They make a classification of the size of the house,  
12 related to the number of the people in it.

13 Q These are enumerators, a local citizen or some-  
14 body in the community who went out and --

15 A It could have been a self-enumeration.

16 Q But no professional made that study?

17 A No. In this case the question is asked of how many  
18 people are in the dwelling unit, and how many rooms in it,  
19 and the calculation is made by the Census Bureau, and that  
20 determination is made by them.

21 Q How many people live in Lakeview?

22 A About 6,000.

23 Q Out of a population of a million, four hundred  
24 and thirty-two thousand,  
25



1 Just to press this point, a great many of those houses,  
2 maybe all of them in Lakeview, are nice looking houses, aren't  
3 they?  
4

5 A Generally, they are.

6 Q Inwood, what kind of a problem do we have in  
7 Inwood?

8 A A problem of deterioration of older units and encroach-  
9 ments of industrial and commercial on some of the older  
10 neighborhoods.

11 Q Do we have an estimate mix in Inwood?

12 A Yes.

13 Q What is the mix?

14 A Primarily, black, and one portion of it Italian-Americans.

15 Q And they live side-by-side?

16 A Generally, yes, because the non-whites are scattered  
17 throughout Inwood?

18 Q And is there an urban renewal development  
19 program --

20 A Yes, there is.

21 Q (continuing) planned for Inwood?

22 A Yes.

23 Q And the local community, in this case --

24 A I would --

25 Q Let me finish the question. In this case, the



1 town of Hempstead is doing something about it, isn't it?

2 A That's right.

3 Q It is not being ignored?

4 A It is not.

5 Q Glen Cove, how many people live in Glen Cove?

6 A 25,770 in the census.

7 Q What kind of problems do we have there in terms  
8 of poverty?

9 A A problem of sub-standard housing units within the  
10 range of the business district, and in some cases, poor  
11 families living in the public housing units that exist in the  
12 city, and elderly people in some of the older fringe areas to  
13 the northwest of the business area.

14 Q Let's get specific. Glen Cove has what kind of  
15 a population, black or white, or both?

16 A Both.

17 Q What kind of mix?

18 A The black population is about a quarter.

19 Q They live together side-by-side with the whites,  
20 right?

21 A Yes.

22 Q Are all the black people poor?

23 A The blacks are concentrated in one section of the  
24 city.  
25

Q Aren't there concentrations of other ethnic groups out in the County?

A Yes.

Q What is the Five Town area, what kind of people live there in terms of ethnic background or religion?

A Predominantly Jewish, as is Long Beach.

Q And aren't there similar concentrations of various ethnic groups out in the County?

A That there are.

Q Does your plan intend to destroy these ethnic concentrations at all?

A Not necessarily.

Q Do you regard that as bad planning, to permit that kind of concentration of Jews to live with Jews, Italians to live with Italians, if they want to?

A There is no attempt to change that.

Q Is there an attempt to change the black mix?

A Not directly in here. I would say the opportunity should be there to move to another area, if it is possible, as other people have vacated the older areas that have deteriorated.

Q Aren't the blacks moving into Hempstead?

A Hempstead village, yes.

Q Aren't they?



1  
2 A Certainly.

3 Q Uniondale?

4 A Yes.

5 Q Aren't they getting opportunity?

6 A I was not qualified to answer that before, I don't  
7 think I will.

8 THE COURT: He is cross-examining you.

9 THE WITNESS: I didn't answer the ques-  
10 tion before, though.

11 Q Aren't people moving into houses, black people  
12 moving into houses formerly occupied by whites, in various  
13 parts of the County?

14 A From the figures that show in here, yes, they were  
15 moving into areas that were more than half white at the  
16 previous census.

17 Q I want to get back to one point, Mr. Kunz: When  
18 we talked about all the crowding, was there an improvement in  
19 Nassau County in any period of time prior to the issuance of  
20 that report, Plaintiff's Exhibit 10?

21 A The overcrowding percentage, you mean?

22 Q Yes.

23 A It improved from --

24 Q County has improved, hasn't it; it went down  
25 from 4.7 to 4, which is the lowest. Of their urban renewal



1 projects, other than in Inwood --

2 A Yes.

3 Q Where are they?

4 A Long Beach, Freeport, Rockville Center, Hempstead  
5 Village, Spinning Hill area, Glen Cove, Roslyn Heights.  
6

7 Q Don't you view those as positive approaches to  
8 the problem of housing?

9 A When housing is replaced in equal number, certainly.

10 Q You favor urban renewal, don't you?

11 A Absolutely.

12 Q Are there communities where population is  
13 decreasing?

14 A Yes.

15 Q What communities are those?

16 A Many of the western portion of Nassau County, the  
17 communities that have smaller houses, two-bedroom houses;  
18 these were ones that were occupied by a family with their  
19 two or three children in the 50's, and now, in many cases,  
20 just the parents remain. So these communities have lost  
21 population.

22 Q Aren't there communities like Freeport which  
23 are losing population because they really need some sort of  
24 urban renewal?

25 A No, Freeport's population is relatively stable.

1  
2 Q Are there communities where the population is  
3 withdrawn because the area needs rehabilitation?

4 A Well, Inwood lost population, that would characterize  
5 your question.

6 Q And it is being rebuilt, right?

7 A That's correct.

8 Q Now, what about Hicksville, is there a situa-  
9 tion in Hicksville?

10 A That has lost population because the public improvement  
11 project, Rose and so on, decreased the amount of housing units  
12 in the central portion of the community.

13 Q To get --

14 A And it's aging, too.

15 (continued on next page.)  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



Q To get to the point, Mr. Kunz, when you were being interviewed by me, didn't you have a point of view about what could be done in the central business areas of some of these communities, like Hicksville and Freeport?

A That's right.

Q Why don't you tell the Court what you told me.

A We recommended that these older centers of activity be sites for new commercial development, apartments and other higher density uses, because the services are already there.

If we are improving the road network and the public transportation, we already have the sewers and water, we feel that these should be the places of new activity, rather than working out on new land.

In other words, within Nassau and Suffolk, these older areas should have a greater amount of concentration; that's the first part of our plan, the centers plan.

Q The potential exists for housing in these areas, does it not?

A That's correct.

Q And a potential exists for housing of all types, low-income, middle-income and --

A All types.

Q And if we have a problem with low-income housing, we could put it into these places in Hicksville and in Freeport.



1 Kunz-direct

2 Q Yes. Will you read the recommendation for  
3 Mitchell Field made by the Nassau Planning Commission,  
4 which appears on the beginning, under recommendations, which  
5 is roman numeral 16, page 16?

6 A "Recommendations: Construct 9,400 units for housing.  
7 If sufficient housing sites are scattered throughout the  
8 county, that number could be reduced. Ten percent should  
9 go for the elderly, 20 percent for low income families and  
10 70 percent for middle- and high-income families."

11 In other words, with the 10, 20, 70 formula adopted  
12 by the State of New York.

13 Q You did, although the bi-county commission  
14 recommended housing in an area broader than Mitchell Field,  
15 you did also recommend housing to be on the site; is that  
16 correct?

17 A The recommendation didn't specify overall, but we  
18 showed on the land use plan parcels that you can interpret  
19 as being, you know, in and out of the ownership pattern,  
20 as shown on that map.

21 Q You stated that there was opposition to the  
22 interjection of housing in any community because of the  
23 impact on ratables; is that correct?

24 A Because of the cost to the school districts, yes,  
25 families with children almost always object to them, if

MR. BELLMAN: Mr. Caso, please.

THE COURT: The witness Liu has been suspended and Mr. Caso will be called.

R A L P H G. C A S O, having been called as a witness, was duly sworn by the Clerk of the Court, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. BELLMAN:

Q Mr. Caso, where do you reside?

A 2045 Baldwin Court, Merrick, Long Island, New York.

Q That's in Nassau County, is it?

A Yes.

Q Do you currently hold any public position?

A I hold the public position of Nassau County Executive.

Q And you were elected to that post?

A In November of 1970, yes.

Q Could you tell the Court what other public positions you have held prior to becoming County Executive?

A Well, my public career goes back to 1935 when I was a councilman on the Hempstead Town Board, until 1961 when I was elected supervisor of the Hempstead Town Board.

And then in 1965 I was elected presiding supervisor of the Hempstead Town Board and served in that capacity until



Those are the two agencies that come to mind.

Q It's true, is it not, Mr. Wells has overall supervisory responsibility under you for the development of Mitchell Field?

A Supervisory, I would say yes.

Q Now, has your administration given any consideration to the type of development which will take place on the County held land of Mitchell Field?

A Yes. I think going back to even before the time that I was County Executive, we have talked in terms of the development of the property acquired by the County for <sup>civil</sup> scientific, educational and cultural purposes. And that has always been in the background of how we have tried to advance the plan, even to the present date we're developing it along those lines.

Q . What are the -- within this framework of the <sup>place</sup> scientific, educational, cultural purpose, what are the specific uses that your administration currently is considering for Mitchell Field in addition to the Coliseum which is already there, of course.

A We presently are ready to move forward with the construction of a central reference library, which will serve all of the residents of our county, and that will be a public purpose developed under the aegis of a Board



of Trustees established by the State Education Department.

We also are developing an area for a recital hall to meet the cultural needs of the County. And that would be in that area near the Coliseum.

There has always been discussion about the need for a hotel, which would not be public, but which would be built by private enterprise, but a hotel was always contemplated as part of the development of this area at Mitchell Field.

The County acquired some 66 acres, 67 acres, which is in the heart of the area for park purposes. We got it for a discount. When I say we, I mean Nassau County Government purchased it at a discount for park purposes, and we're in the process of developing a plan for that.

We also are setting aside property in the northwest quadrant and along Oak Street at Mitchell Field for a -- which I call a complex for the handicapped, where there would be some 35 or 40 acres that would be set aside for Boises, which is the school district agency charged with responsibility of developing programs for the handicapped, the retarded, the emotionally disturbed and cerebralsied, and also some form of a technical and trade high school, which we do not have as such in Nassau County.

We have also been thinking in terms of a police

1  
2 precinct there to serve the needs of the area, with police  
3 protection. Recently the County acquired the bus system  
4 and we must now add a bus facility that will take care of  
5 the busses and the office for our subsidiary authority that  
6 was created by M.T.A. And that is also planned as part  
7 of the development.

8 And we also have to provide in the area a firehouse  
9 for fire protection and the Hempstead Plains, which is  
10 property that ecologists and conservationists have asked  
11 us to keep in its natural state, takes up about fifty acres.

12 I think that generally relates how we're planning  
13 the development of the field.

14 Q You are also, are you not, considering the  
15 development of the Santini property for some old-age  
16 housing, in conjunction with the Hempstead Housing  
17 Authority?

18 A Yes. The Santini area, which is about eighty acres,  
19 is considered for senior citizen housing and also for a  
20 commercial and industrial development to bring in ratables  
21 for that particular area.

22 Then there is a tract of land on the turnpike which  
23 is also being considered for commercial development.

24 Q How many acres are there at the Santini site?

25 A I think roughly eighty acres in all.



1  
2 for the Mitchell Field area?

3 A Yes, I think so. We have, of course, up at the  
4 northerly section, which is on Stewart Avenue, again  
5 for identification, there is acreage which the Federal  
6 Government owns on which will be developed a Federal office  
7 complex. That has been approved, some 75 million dollars,  
8 I believe, and it is just a question now of putting the  
9 plan together and developing that.

10 In addition to that, there is some 15 acres which is  
11 marked in red, which the County is holding for County  
12 Government purposes as part of, again, a Governmental  
13 complex when the Federal office building is built.

14 There is also on the north side of Stewart Avenue,  
15 that section up at the top there, where the Federal  
16 Government has acquired property and they are going to  
17 an F.A.A. office, we're told --

18 Q That is north of Stewart Avenue, correct?

19 A Yes, that the County no longer owns, the F.A.A.  
20 and the Federal Government has a portion of it, and the  
21 Town of Hempstead has just acquired a portion of it for  
22 a recycling plant.

23 Q But that is not part of the County holdings?

24 A No.

25 Q Except for that 15.3 acres, the other parcel



Q Now, could you tell the Court why you -- now, you said it has also been your consistent position on the subject of housing at Mitchell Field? Is that correct?

A Yes.

Q Could you tell the Court why you believe housing should be excluded from Mitchell Field? When I say this, I keep in mind that there is the 250 units at the Santini, but I am referring to any additional units.

A First of all, I think that it has to be made clear -- and I am sure it has already been done on this trial -- that the County does not have housing powers. So that as far as Nassau County building houses in Mitchell Field, it cannot do so as Government, because that authority rests with the towns and villages in our County.

Zoning, which is also a question of whether you are going to have housing --

THE COURT: Mitchell Field is in what town?

THE WITNESS: It is in the town of Hempstead.

THE COURT: Hempstead?

THE WITNESS: Yes.

THE COURT: So, it would have to be the Town of Hempstead that would do it?

THE WITNESS: Yes.

THE COURT: Would it need an approval from the

1  
2 THE COURT: I am trying to find out what  
3 I am supposed to do when it is all over.

4 Go ahead.

5 I am right back where I was yesterday  
6 morning.

7 THE WITNESS: --so, you know my position --

8 THE COURT: Have you ever conceived a denial  
9 of building houses there for racial reasons?

10 THE WITNESS: Absolutely not.

11 THE COURT: Have you ever considered that  
12 the Blacks -- not to put Blacks there for racial  
13 reasons -- and therefore, you would not put housing  
14 there.

15 THE WITNESS: Of course not.

16 THE COURT: Has that ever entered into your  
17 consideration?

18 THE WITNESS: Never.

19 THE COURT: Have you no housing laws because-  
20 you may have to put Blacks there?

21 THE WITNESS: Absolutely not.

22 THE COURT: Go ahead.

23 That is the issue in the case, you know.

24 You know what the issue in the case is, that  
25 the Puerto Ricans, poor Blacks and poor Whites should



1  
2 housing should not be included in the County-owned  
3 land.

4 And I would like to understand -- I think  
5 my question was, -- you may have given an answer,  
6 but it has been a while ago, and I just don't  
7 recall -- will you please tell me why you believe  
8 that housing should not be located at Mitchell  
9 Field?

10 A Because in the time that I have been working on  
11 the acquisition as well as the development of Mitchell Field,  
12 going back as you yourself have indicated in 1961, when it  
13 was first declared surplus, the contemplation of the County  
14 in acquiring the property was civic, cultural and  
15 educational purposes. It was never bought for housing because  
16 of the fact that even back in 1961, and even after that,  
17 the County has no housing powers.

18 So it was never contemplated that this property would  
19 be acquired for housing. It was meant to take care of the  
20 needs of our County, which is a million and a half people,  
21 in the areas of public facilities as presently do not exist,  
22 and should belong in a central area, such as Mitchell Field.

23 Q Mr. Caso, is it also your position that housing  
24 in the basic tract of Mitchell Field, be inconsistent with  
25 a civic, educational and cultural purpose?



of the people of Nassau County, felt about the issue of housing at Mitchell Field?

A Yes.

Q It is true, is it not, that they were in large part opposed to the inclusion of any housing at Mitchell Field?

A I would say that they were opposed to any massive development of Public housing at Mitchell Field, for many reasons; primarily, the impact it would have on the communities, especially those that surround the area, the tax burden, the need for schools, the other questions of -congestion, and so on.

Q But they were generally in favor of your position that there should be no housing, not just large developments, but no housing on Mitchell Field; is that correct?

A I would say that they basically felt that that was not the place to solve the housing needs for Nassau County, by having massive development of housing at Mitchell Field. That would be basically so.

I think that in the context of the campaign of 1970 we should not lose sight of the fact that at that time, as we talked about the development of Mitchell Field, that I came up with an alternate plan for housing through out

entire County, which was the scattered site plan which was put forth as a means of trying to solve the housing needs of Nassau County.

THE COURT: Come up a minute.

(Discussion at the bench, off the record.)

THE COURT: We will take a five-minute recess.

(Recess.)

THE COURT: We will let him go and bring him back. I don't want to rush you on it.

MR. BELLMAN: He is an important witness, your Honor.

I told your Clerk a half-hour would not be enough.

THE COURT: It is unfair to everybody to continue for a half-hour. I would just as soon bring him back. We will let him go because I don't think we can finish him in a half-hour.

It may very well be you may not need to call him later on, anyway .

MR. BELLMAN: On the record, I want to state that we do intend to call him.



1  
2 have that kind of authority.

3 The best we can do is encourage, and when we do find  
4 listings, opportunities, we push them, but most people find  
5 their own.

6 I would imagine now -- I can't back this up with  
7 hard data -- but I would imagine where you have heavy  
8 concentrations of Black people, you'd find Black people from  
9 the motels going to those areas. I think they gravitate to  
10 where housing is available; they have relatives and so on.

11 It is not a deliberate manipulation on our part by  
12 any means.

13 Q Before the Department of Social Services agrees  
14 to contribute to the rent payments of a welfare recipient,  
15 does the Department inspect apartments?

16 A No, we do not. It was my impression when I came in  
17 to the job, that that would not be possible, but since that  
18 time I have been testing -- I have instituted a pilot project  
19 in cooperation with one of our -- well, more helpful impacted  
20 areas on a joint inspection basis, where this Department, the  
21 Department of Social Services, would not do the inspections.

22 When we have -- in fact, they are now inspecting all  
23 the dwellings, or welfare dwellings, if you will, in that  
24 area.

25 The inspections are made by the local Building Depart-



1  
2 A Yes. There was a timing problem. When we were  
3 retained by the Mitchell Field Development Corporation, the  
4 corporation wanted to start initial development as soon as  
5 possible and the Marcom plan, as explained to us by the --  
6 by officials of the corporation, was not well received in  
7 many quarters, and that our prime task was to quickly  
8 develop a preliminary urban design concept that would  
9 relieve some of the criticisms addressed to the Marcom  
10 plan so that the preliminary -- the initial parcels can be  
11 sited and zoning approval obtained from the Town of  
12 Hempstead.

13 What we did was to take the Marcom program and the  
14 Marcom plan, retain those aspects that we thought were  
15 acceptable and good and revise those aspects that we thought  
16 were -- need improvement.

17 We approached this primarily from a physical planning  
18 point of view. We didn't go into any programmatic studies.  
19 We were also instructed by the corporation to concern our-  
20 selves exclusively on those aspects that have a direct  
21 relationship to the so-called initial parcels.

22 Q When you speak of aspects of the Marcom plan  
23 which needed improvement, what were those aspects?

24 A There were many. To cite the major ones, the internal  
25 road alignment of the Marcom plan we thought were not good

1  
2 identified the phase 1, which is substantially what I've  
3 just mentioned to you in terms of the initial parcels, and  
4 directed our attention specifically to that.

5 Q In terms --during the course of your meetings  
6 with Mr. Sweeney and Mr. Edmond, did they solicit your  
7 opinions with regard to how Mitchell Field should be  
8 developed?

9 A Yes.

10 Q Did you make suggestions to them about how  
11 to create a vital center at Mitchell Field?

12 A Yes.

13 Q What were the suggestions which you made to  
14 them?

15 A I made suggestions on several levels.

16 On the countywide level I suggested that the Mitchell  
17 Field should not be considered as the major -- the only  
18 center in the county. It is one of a network of centers  
19 in the county and should be developed with that relationship  
20 in mind.

21 I also suggested that Mitchell Field should not be  
22 viewed as an isolated project, it should be developed in  
23 terms of its countywide and community context.

24 We also suggested that Mitchell Field should not be  
25 viewed as a cure-all solution to all of the county's



1  
2 Q It is true, is it not, that during the course  
3 of your synopsis, you referred to plans for housing at  
4 Mitchel Field?

5 A Yes.

6 Q It is true, is it not, that when you refer to  
7 the plans for housing at Mitchel Field, something occurred  
8 at the meeting?

9 A Yes, there was a discussion about that, and the County  
10 Executive said that he made a decision that there would be  
11 no housing in Mitchel Field, and he explained that the reason  
12 he made this decision was because Mitchel Field is surrounded  
13 by housing, and he thought that the land in Mitchel Field  
14 can be better used for other purposes, that he felt the County  
15 needs it for such as cultural, recreational and commercial  
16 purposes.

17 THE COURT: Was he excluding all houses or  
18 excluding a particular type housing, or limiting it  
19 to some type of housing?

20 THE WITNESS: He did not elaborate, he just  
21 said that there will be no housing as such.

22 Now, I know that subsequently from working  
23 on the plan, there were senior citizen housing included  
24 on the Mitchel Field property --

25 THE COURT: So something must have happened



10                   Liu - direct

necessary land uses at Nassau Center?

A           Yes.

Q           And so that the record is clear, is Nassau Center Mitchell Field?

A           Yes.

Q           Would you answer?

A           Yes.

Q           Okay.

Is that your opinion today?

A           It's -- it is still my opinion today, but may I point out that again we were urging everybody to look at Mitchell Field in his regional and community context.

Now, if Mitchell Field were a new town in the desert, then without housing it would not be a vital center. But it is very obvious that Mitchell Field is situated in a sea of housing and that the legal boundary lines do not isolate the project.

So it is a difficult assertion to say that despite the fact that there is no housing within the legal boundary lines of Mitchell Field, that Mitchell Field as a development complex does not have housing.

Q           Now, you -- the statement which you just read also refers to the framework of a countywide housing policy.

At the time that you wrote that statement,

11                               Liu - direct  
were you aware of the existence of a countywide housing  
policy?

A       No, but I was aware that the County Executive has a  
appointed a Housing Coordinator.

Q       Are you aware of the existence of a countywide  
housing policy today?

A       No.

Q       May I direct your attention to page 46 of the same  
volume?

          Would you read the second full sentence in the  
first paragraph?

A       "Housing is an integral part of the initial phase."

Q       Was that your opinion at the time that you  
wrote that sentence?

A       No, it was not an opinion, it was a statement by  
the corporation. The corporation identified what the first  
phase was and what was to be concluded in the first phase.

Q       Is it a statement to which you subscribed?

A       I have no opinion one way or another. It's -- I  
would not have any more opinion than if they excluded  
the hotel from the first phase.

Q       Let me direct your attention then to pages  
106 and 107 of again the first volume.

          Would you read the section under "Housing."

13 Liu - direct

in the region."

Q Now, at the time that you wrote that statement, it was your opinion, was it not, that from a planning point of view, a balanced development of the scale of Nassau Center must necessarily include housing?

A Yes, but again I refer back to the statement earlier. I would like to point out to you that there was the intention of the corporation at that time and the general community attitude, in addition, that the intensity of development at Mitchell Field should not violate the suburban physical characteristics, which means that it should leave a large amount of open space, very minimum building coverage and there was talk about between 10 to 15 percent of the land to be covered by building and the remaining part free.

So it's a myth to think that there is a lot of land available for development at Mitchell Field, you see.

So when you look at the larger context and if you make a list of what facilities are wanting, housing comes fairly much down the list.

(continued next page.)



4

Caso - direct

about it, it stops right there.

MR. BELLMAN: Do you remember the question?

Why don't you read it back?

(Question read.)

THE WITNESS: I would say that that was of concern to the residents of our county. And since the law would not allow us to have this housing primarily to take care of our own residents, that some people were concerned about accomodating those outside of our county and not solving our own housing problems.

The only public housing that does permit restrictions by age and income is the senior citizen housing, however, so I would draw that distinction.

BY MR. BELLMAN:

Q It is true, is it not, that you concluded that one underlying concern or information related to the possible influx of racial minorities into housing at Mitchell Field?

A No, that is absolutely not true. There was no racial overtones to this whatsoever.

Q You never reached any conclusion that -- that racial fears were underlying the local opposition to

GR:pc  
take 4/3

Caso - cross/Jaspan

Q Are you one of the governmental officials --

A It's like a multiple choice question. We'll put it into a computer later.

Q Mr. Caso, as County Executive, you are one of the governmental officials who make the decision with respect to Mitchell Field?

A Yes.

Q Is it not a fact that within the executive branch of the Government of Nassau County, no significant decision with respect to Mitchell Field is made without your approval, since you became County Executive?

A True.

Q Now, what changes in the development of Mitchell Field were made or are now seriously proposed, since -- in the -- since the issuance of the Liu Report, and during the -- in the -- with -- let me withdraw that question.

Since the issuance of the Liu Report in the early months of your administration, what changes have been made in the development of Mitchell Field, or are now seriously proposed? Could you recall them, or perhaps I can help you with the --

A Well, one of the exchange which we've talked about through the testimony here, is the 67 acres which, admittedly,

## Caso-cross/Jaspan

had been completely forgotten, was dedicated to the County for park and recreational purposes only.

And in the Liu Plan, if you check that over, you will find that his -- not -- not knowing that, provided to some other development on that property.

So obviously that is a change that had to take place.

Similarly, with respect to the coliseum and the plan for a hotel, here again, not wanting to make a speech, but when you talk about a master plan, all of the so-called planning experts have told you that the hotel should be on the west side of the coliseum, and it was fine, and we laid it out that way, except that when the people who came to want to build the hotel didn't want it there, and said that they wanted it on the other end. We were faced with a practical consideration about what do you do with a master plan, and I think that just dramatically, again, points up when people talk about having a strait-jacketed type of master plan.

Also a very important conservation aspect of Mitchell Field, where we have at least 50 acres for Hempstead Plains and possibly, as things develop there, we may add another 20 or 25 acres to that. So that we can have a natural preserve, where generations from now people can go and see what it used to be like in Nassau County at



1                   Caso - cross/Jaspan

2                   The Hempstead Plains areas, of which  
3                   Mr. Caso speaks.

4                   The school for retarded children was  
5                   moved from the Santini area to the northwest  
6                   quadrant.

7                   A police station is going to be built  
8                   in the northwest quadrant.

9                   A bus depot is to be built or garage  
10                  and lot for parking of buses to be built in the  
11                  northwest quadrant.

12                  The library site has been moved.

13                  There are 15 acres sold in the northeast  
14                  portion of the field to the Town of Hempstead  
15                  for high intensity solid disposal units.

16                  The BOCES , which is schools for --  
17                  operated cooperatively, is going to be built  
18                  in the northwest quadrant.

19                  The hotel is being -- will probably be  
20                  moved from the west side to the east side.

21                  And 6 acres of the Navy.

22                  BY MR. JASPAN:

23                  Q           Now, were any of these changes or proposals,  
24                  Mr. Caso, made in response to political pressure,       personal  
25                  idiosyncrocies, prejudices or personal obligations? I'm

1                   Caso - cross/Jaspan

2                   20 units per acre.

3                   THE COURT: All right, go ahead.

4                   THE WITNESS: What happened was -- with  
5                   the State School for the Retarded, briefly, is  
6                   that the State had actually acquired the title  
7                   to that land, but then the appropriation was  
8                   withdrawn by the legislature so they could not  
9                   go forward with it.

10                  And the end result was that they gave  
11                  the county back that property, and I have  
12                  indicated to them that when they get the  
13                  appropriation, that we would give them a  
14                  similar piece of property in the northwest  
15                  quadrant, which is where, incidentally, they  
16                  wanted to be in the first instance.

17                  Q           Up in the 707 up there?

18                  THE WITNESS: Well, at which time  
19                  Mr. Nickerson, and the whole -- I don't want to  
20                  re-hash that thing. The '66 application  
21                  pre-empted and wanted that for the County.

22                  THE COURT: That's the only question  
23                  I had.

24                  BY MR. JASPAN:

25                  Q           No, does the County also propose to use

1                   Caso - cross/Jaspan

2                   others, and I see this one didn't have it. I'd  
3                   just like to offer everything but the name on  
4                   the bottom. I'll rip it off.

5                   THE COURT: I don't think anybody is  
6                   concerned about who is proposing it.

7                   BY MR. JASPAN:

8                   Q           Mr. Caso, have you had several proposals  
9                   for the development of a center in the coliseum for the  
10                  performance of living arts?

11                  A           Yes, we have.

12                               (continued on the next page.)  
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1                   Caso - cross/Jaspan  
2 review with private developers.

3                   MR. JASPAN: I offer this proposal in  
4 evidence.

5                   MR. BELLMAN: You are offering it for  
6 what purpose?

7                   MR. JASPAN: To show that there is a  
8 rational basis for the development of Mitchell  
9 Field, and this is part of the plan for the  
10 rational development of Mitchell Field, and is  
11 not intended for the purpose of excluding  
12 housing for the rich, for the poor or for  
13 anybody else.

14                  MR. BELLMAN: I think we would object  
15 to this plan. Is this adopted?

16                  MR. JASPAN: It is not adopted. We  
17 are showing you what our proposals are and  
18 what we are working for --

19                  THE COURT: On the basis when you  
20 asked if there are any plans, and he said  
21 there are numerous plans but they had no  
22 master plan, as you call it.

23                  That is the reason for it, and I will  
24 allow it for that purpose.

25                  You must hurry up. We have 12 people

1                   Caso - cross/Jaspan

2                   MR. JASPAN: I am trying to show that  
3 we are rationally developing Mitchell Field --

4                   THE COURT: Everybody has been showing  
5 me that for the past however long I have been  
6 on this case.

7                   MR. JASPAN: I am trying to make the  
8 building blocks of our defense --

9                   THE COURT: I know exactly what you are  
10 doing at Mitchell Field, that is not my problem.

11                   My problem is where do I fit public  
12 housing if there is discrimination, that is my  
13 problem.

14                   MR. JASPAN: If the Court will accept  
15 the proposition that we are developing --

16                   THE COURT: I keep repeating the problem.

17                   MR. JASPAN: If the Court will accept  
18 the proposition that we are rationally developing  
19 Mitchell Field --

20                   THE COURT: I don't think there is anybody  
21 in the room who disputes that.

22                   MR. BELLMAN: The plaintiff does.

23                   MR. JASPAN: Then I have no further  
24 questions of this witness.

25                   THE COURT: You are disputing that they

1  
2 citizens.

3 Overwhelmingly, senior citizens have applied for  
4 housing, for low-income housing.

5 Q I wonder if we could go down this list and if  
6 you could tell me the year that each of these projects were  
7 built?

8 A Green Acres was the first, in 1968, January of 1968.  
9 Maybe I have that here. I'll give you an estimate of when  
10 they were completed. January 1968 for Green Acres.

11 MR. JASPAN: If your Honor please, we now  
12 know that it's built between '68 and '73.

13 I submit it's a waste of time to go down  
14 and get the date of each one of these projects.

15 THE COURT: If he wants to do it, I'll  
16 let him do it.

17 A All right.

18 Levittown was May, 1969. Uniondale and Park, approxi-  
19 mately -- these are approximate figures -- March, '71.

20 Bayview and Wolcott -- I have 12/71. That did not  
21 come through at that time. So, I'll have to -- it was about  
22 last June, Bayview.

23 Q What project is that?

24 A That's 4. NY46-5 was September, '69. 46-6, Baldwin,  
25 November, '70. NY46-7, April, '71. NY 46-8, June, '71.



housing units for the elderly derived from the number of applications.

Did applications come into the Authority prior to 1963?

A In 1963, they started coming in. When we opened our office.

Q I see.

A These were requests for applications. Requests for housing.

Q How many applications currently does the Housing Authority hold for units?

A I have this on the figures I gave you. 4,880 on elderly.

Q And how many family?

A 302.

Q Does the Housing Authority undertake any studies to determine the housing needs of the citizens of the Town of Hempstead or does it in conjunction with formulating plans for the constructions of housing units?

A We have not so far.

Q Does the Housing Authority consult with any planning agencies such as the Nassau County Planning Commission or the Bi-County Planning Commission, with respect to documenting the housing need in conjunction with its housing programs?

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A No.

Q So you solely rely upon the number of applications you received; is that correct?

A Yes.

Q Now, what proposals does the Housing Authority currently have for the construction of additional public housing units?

A We do not have any proposals. You mean from contractors?

Q Not from contractors.

What plans at this time does the Housing Authority have for the construction of public housing units?

A Plans. They have plans for the construction of 325 units; 250 for elderly and 75 for family.

Q Now, those 250 units are earmarked for the Santini location; is that correct?

A That is correct.

Q And that's at Mitchell Field?

A That is correct.

Q Where are the 75 family units to be located?

A I would say 25 in the Inwood Urban Renewal area and 50 throughout the unincorporated area of the Town of Hempstead.

Q Have sites been located for these 75 units?

(Witness excused.)

THE COURT: Anyone else?

MISS THOMPSON: Raymond Malone.

RAYMOND H. MALONE, called as a witness, having been first duly sworn by the Clerk of the Court, was examined and testified as follows:

DIRECT EXAMINATION

BY MISS THOMPSON:

Q Mr. Malone, you are presently employed by Nassau County, are you not?

A I am.

Q What is your position?

A I am County Housing Coordinator.

Q For how long have you held that position?

A Since January 1, 1971.

Q Is your position a salaried position?

A It is.

Q Is it a full-time position?

A It is.

Q By whom were you appointed?

A By the County Executive.

Q Is that County Executive Caso?

A Yes.

Q Do you have a staff which works under you?



1 9 Malone - direct

2 town or in the county?

3 A Yes.

4 Q Have you made a number of such presentations?

5 A Yes.

6 Q You've spoken to large groups? 200 people  
7 or more?

8 A Yes, yes.

9 Q Have you spoken to small groups?

10 A Yes.

11 Q During the course of these various presentations,  
12 are there any particular questions which you're asked most  
13 frequently?

14 A What's it going to cost us, how much are we going to  
15 have to pay in additional taxes.

16 Q During the time that you have been speaking  
17 publically with regard to the low-income housing, have you  
18 attended any other meetings other the one which you've  
19 just described, in which members of the audience interrupted  
20 or spoke in loud voices or made it impossible to continue  
21 the meetings in any way?

22 A Never anything as bad as that.

23 Q It's true, is it not, that you've viewed  
24 both your role as chairman of the Town of Hempstead Housing  
25 Authority and your present role as Coordinator of Housing

14 Malone - direct

to determine whether I used one word which I, a few minutes ago, said I didn't use.

I don't know whether I used that word or not. Possibly I did but I can't recall 28 months ago whether I used a specific single word.

Q I was asking whether it was your recollection and you've answered the question.

THE COURT: He has no recollection.

BY MRS. THOMPSON:

Q You indicated earlier that in your job as Housing Coordinator of Nassau County you serve as a liaison between public and private housing groups and you indicated specifically work with regard to the Jones Institute.

Are there other private housing groups with which you've had occasion to work in Nassau County?

A Yes.

I've worked with Roosevelt Community Development Corporation, which is a private group; Houses for People, Incorporated; The Task Force of the Diocese of Rockville Center. Those are the ones that come to mind readily.

Q Have any of those three groups built public housing or publically assisted housing?

A No.

Q Do you know whether any of those three groups

1  
2 housing?

3 A Yes.

4 Q During the time that you have been Coordinator  
5 of Housing for Nassau County, have you made any attempts to  
6 locate sites throughout the County on which public housing --  
7 assisted housing could be constructed?

8 A Only with private corporations, non-private corporations  
9 who have asked me to assist them in various ways, particularly  
10 Roosevelt Community Development Corporation, which was going  
11 through a 236 program -- 231 program, which was rehabilitated  
12 housing. I assisted them on that through the FHA office. The  
13 Catholic Diocese had several sites that they asked me to look  
14 at to see if I thought they would get some funds, or something  
15 of that sort.

16 THE COURT: All right, we are going to  
17 recess now until 2:00 o'clock.

18 (Luncheon recess taken.)  
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Malone - cross

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involved?

A I've assisted the Housing Authorities in getting their applications through HUD, brought other organizations in that might be able to build housing or help assist or finance housing, such as UDC, such as the community development -- State Community Development Corporation. In any way that could be of assistance, speaking in public meetings, talking to various groups, generally assisted housing authorities and non-profit private organizations.

Q And you say, this was a first for the county; was it not?

A I believe it was a first for the State.

Q And you did this with the full blessing and encouragement of the County Executive and the county government?

A I did it at his request. I resigned a position I held for 22 years to accept this.

Q Right. Now, there has been testimony about a freeze, without further definition of this word "freeze," in terms of subsidized housing.

Are you familiar with what that term means?

A Yes.

Q Would you please explain it?

A On January 4, then Secretary of HUD Romney declared

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Shore - direct

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Q What specific reasons did the association

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give for including residential structures in the

4

development of Mitchell Field?

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A Well, one of the major arguments for concentrat-

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ing activities as to provide the opportunity for people

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to get around in a way other than the automobile, by

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walking and by public transportation. And we pointed

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out that all of the research available indicated that

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when you plan a center of jobs and other activities

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and you relate to them the higher density housing

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that people will want, then you can cut down the amount

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of auto travel significantly. You get a high

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percentage of people walking to work and you get the

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people needed to support a public transportation system,

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which moderate density housing and scattered jobs simply

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will not do.

18

Q Did you state any figures, or did the Regional

19

Plan Association provide any figures in its 1963 report

20

with respect to the number of apartment units that

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would be required by the county to meet the growing needs

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for apartment units?

23

A Yes, we projected population -- and not simply

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population in general, but population by households and

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by age of households -- and we pointed out that if

the question whether you were making a specific recommendation for housing in Mitchell Field as we look at it in

1  
2 Exhibit P?

3 A What is Exhibit B?

4 Q P, that map (indicating).

5 A Oh. Well, we were recommending -- I can't relate it  
6 to Exhibit P. We were certainly recommending housing in  
7 Mitchell Field, yes.

8 Q Let me read this to you, development on vacant  
9 land in the center of Nassau County and I am reading from  
10 Exhibit W in Evidence. The 10 square miles bounded by  
11 Franklin Avenue, Stewart Avenue, Salisbury Park, Hempstead  
12 Turnpike, including Roosevelt Field, Hempstead, Garden City,  
13 Mitchell Field, and Mineola, should be carefully planned  
14 to form with what is there a new kind of urban-suburban  
15 center.

16 Now, let me read to you the conclusion to which I  
17 directed your attention: What is needed is a careful plan  
18 for Mitchell Field and the surrounding 5,000 acres promptly  
19 before opportunity is lost by piecemeal development.

20 Now, I ask you again whether your recommendations  
21 in that plan were limited to the geographical boundaries as  
22 you see it?

23 A They weren't obviously limited to that, what we are

24

25



1  
2 saying is the kind of urban center we are talking about  
3 including housing belongs in Mitchell Field, but a center of  
4 that magnitude and that degree of activities would naturally  
5 affect what goes on around us.

6 And our whole concept of housing, in relation to the  
7 center, is high density housing along and adjacent to the  
8 center, but that the center affects the housing pattern  
9 around it as iron filings are related to a magnet. This is  
10 a tremendous social magnet. People want to be near it and  
11 it tends to magnetize housing around it if zoning allowed  
12 that to happen.

13 The impact on housing would not be limited to Mitchell  
14 Field but indeed recommending housing in Mitchell Field  
15 specifically.

16 Q Did you say so in that report?

17 A Yes.

18 Q That you identified --

19 A We are talking about one of the reasons for the center  
20 is that people can walk to work.

21 Q I asked you if you identified the location.

22 A Yes.

23 Q Isn't that in and around --

24 A Well, I don't remember the detailed wording but there  
25 was certainly clear indication that some of the housing

MRS. THOMPSON: Mrs. Redfern.

3 B E T T Y R E D F E R N, was first duly sworn by the

4 Clerk of the Court and testified as follows:

5 DIRECT EXAMINATION

6 BY MRS. THOMPSON:

7 Q Mrs. Redfern, you are a plaintiff in this  
8 action, are you not?

9 A Yes, I am.

10 Q Will you speak a little louder?

11 A Yes, I am.

12 Q Could you tell the Court whether or not you  
13 are married?

14 A I'm single.

15 THE COURT: What?

16 THE WITNESS: Single.

17 THE COURT: Single?

18 THE WITNESS: Yes.

19 Q Do you have any children?

20 A Yes, I do.

21 Q Would you tell the Court the names and ages  
22 of your children?

23 A Debra, 9; Antoinette, 7; Charles, 6; Geraldine,  
24 1 year.

25 Q Do your children presently reside with you?

1 Redfern - direct

2 against you with regard to your rental payments?

3 MR. JASPAN: I object to that, your  
4 Honor.

5 THE COURT: Sustained.

6 There may be other reasons for  
7 proceedings pending against her with have  
8 nothing to do with this case and that's  
9 for the Welfare Department to come to her  
10 assistance. And I assume she knows the  
11 reasons why they have or have not. That's  
12 for another Court, not for me.

13 Q Mrs. Redfern, was your rent recently increased?

14A Yes.

15 Q By how much was it increased?

16A \$25.

17 Q Before the \$25 rent increase, how much of  
18 your own money were you paying towards your rent?

19A \$7.50.

20 Q And how long ago was your rent increased?

21A Two months ago.

22 Q Have you made an attempt to find new  
23 lodgings?

24 THE COURT: How long, two months

25 ago?

THE WITNESS: Yes.



Redfern - direct

A Yes.

Q And they had no problems in those schools, did they?

A No, not -- no.

Q Are your children attending school where you presently live?

A Yes.

Q What is the racial composition in the school which they are attending?

A Let's see, about 85 percent black.

Q And have your children had any problems in that school?

A Nothing but what children go through, you know, everyday routine.

Q And what was the racial composition of the school your children were attending in Bellmore?

A 95 percent white.

Q And were your children happy in that school?

A Yes.

Q Have you yourself been attending school recently?

A Yes.

Q What kind of school have you been attending?

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Q Do you know what's presently located  
at Mitchell Field? Do you know what is presently  
located at Mitchell Field?

A Yes.

Q What is that?

A Nassau County Coliseum.

Q Is there anything else that you are  
aware of at Mitchell Field?

A No. Not in the surrounding area.

Q If housing that you could afford were  
built at Mitchell Field would you like to live there?

A Yes.

MR. BELLMAN: I have no further  
questions.

THE COURT: Any questions?

MR. JASPAN: Just a couple.

CROSS EXAMINATION

BY MR. JASPAN:

Q How many rooms are in your present apart-  
ment?

A Five and a half.

Q What is the general condition of the  
apartment? Or what shape is it in?

A Liveable, good. Good.



Redfern-Direct

1

2 Q It's good conditions, right?

3 A Yes.

4 Q And who helped you find that apartment?

5 A Housing Department of Social Services.

6 Q Of Nassau County?

7 A Yes.

8 Q And since you have lived in that apartment

9 you have looked for other apartments as well, haven't  
10 you?

11 A Yes, I have.

12 Q And you found some but the landlord  
13 wouldn't let you have them?

14 A I wouldn't say the landlord, it was the super.

15 Q Or the super they just wouldn't -- but  
16 you found the apartment?17 A No -- I found an apartment but it was over the  
18 rent what Social Service would allow me and it wasn't  
19 enough sleeping space, it was just two bedrooms.

20 Q Well, I thought you --

21 A And the one that I said was a three bedroom,  
22 I got it from the papers, Newday and he said it was  
23 only a yearly ad and it wasn't nothing vacant.24 Q That was the Wilshire apartment, wasn't  
25 it?

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A No, the Wilshire House they don't accept Welfare recipients.

Q But there was housing there.

A I don't know, he didn't tell me.

Q Whatdid he say to you?

A After that application, and they got in touch with me and told me that -

Q Where is the house that you did find that the super told you that it's a yearly ad?

A The Cedar Court Ridge.

Q Did you make any complaint about these landlords to the Human Rights Committion of Nassau County?

A No, I haven't.

Q Have you ever visited the Human Rights Commission of Nassau County?

A No, I haven't.

Q Do you know that we have a Fair Housing Law in Nassau County?

A Yes, I do.

Q Do you know what that Fair Housing Law provides?

A Yes, I do.

Q That they can't refuse you or anybody else

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Redfern-Direct

1082

2 housing, is that right?

3 A Yes, I do.

4 Q But you never took advantage of that?

5 A Not yet.

6 MR. JASPAN: Okay, thank you.

7 CROSS EXAMINATION

8 BY MR. HYMAN:

9 Q You testified you had four children.

10 A Yes.

11 Q I will call you Miss Redfern, okay. And  
12 the oldest child is how old?

13 A Nine.

14 Q And from the date your oldest child was  
15 born did you work?

16 A Before she was born too.

17 Q No, after she was born?

18 A Yes, I did.

19 Q And who took care of that child while  
20 you were working?

21 A My in-laws, her father-in-laws.

22 Q Your father-in-law?

23 A Her father-in-laws. She had a baby sitter.

24 Q Were you married?

25 A No, I am single.



1 10

Blankman - cross

2 matters.

3 Q Let's go back: Weren't you critical in that  
4 report of the Marcom Report?

5 A Yes, we were.

6 Q Did you not say in that report that the Mitchell  
7 Field Corporation employed Marcom, Inc., of New York, who are  
8 management consultants, and that they lacked certain talents?

9 A We did.

10 Q What talents did they lack?

11 A We felt that they -- that they were principally manage-  
12 ment consultants, and were not -- and were not -- were not  
13 equipped as planners.

14 Q They were not planners?

15 A That's correct.

16 Q Did you say they paid very little attention to  
17 design?

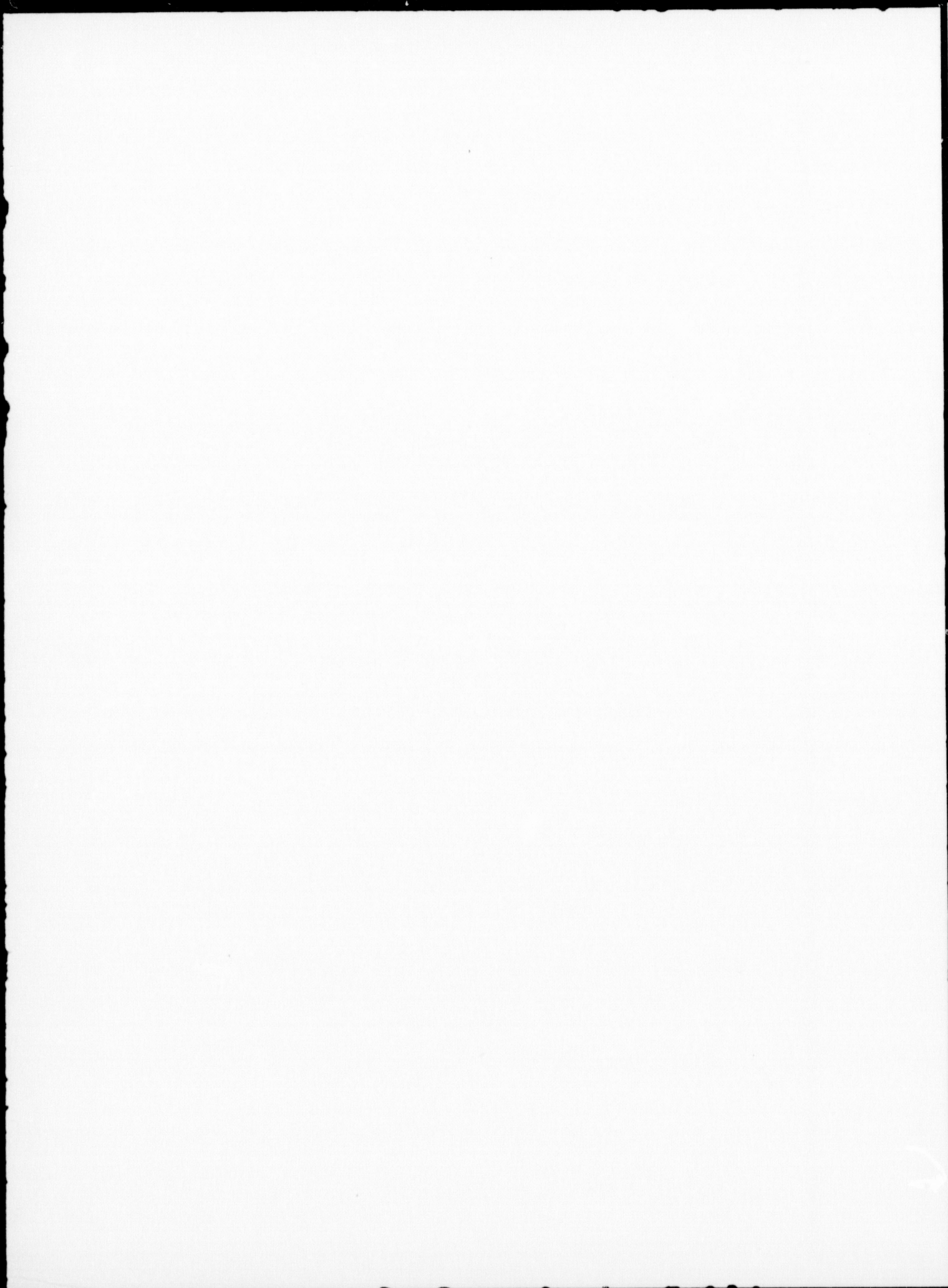
18 A That's correct.

19 Q Didn't you say they made no provision for County  
20 buildings?

21 A That's correct.

22 Q Which I presume to mean you thought County build-  
23 ings should be at Mitchell Field?

24 Q We -- We thought that since the County had planned  
25 additional buildings, that the placement of some of the County



1 11 Blankman - cross

2 buildings in Mitchell Field should be considered as saving  
3 the County money, rather than to go into other locations.

4 Q So you thought that putting County buildings  
5 in Mitchell Field was a rational use for Mitchell Field?

6 A We didn't say that County buildings should go into  
7 Mitchell Field, we said that it should be considered to see  
8 if it was feasible to do so.

9 Q Let's see what you did say at the bottom of  
10 the first page of the report:

11 "No provision has been made for future County buildings.  
12 This appears to be a mistake. A mistake considering existing  
13 congestion at the County Center and the greater cost of expand-  
14 ing there than at Mitchell Field."

15 A That's correct.

16 Q You said that, didn't you?

17 A Yes, of course.

18 Q Do you retreat from that?

19 A Not at all.

20 Q Now, you say your report deals with housing.  
21 Isn't it a fact that your report said that the proposal by  
22 Marcon for housing was not feasible?

23 MR. BELLMAN: Can you tell us what  
24 language --

25 MR. JASPAN: Item No. 5 in that report.



Blankman - cross

1 12

2 MR. BELLMAN: Well, point to the particu-  
3 lar language.

4 MR. JASPAN: That's it, number 5.  
5 You will find it.

6 Here, right there, "economic feasibility."

7 THE WITNESS: No, that doesn't say --  
8 that doesn't say that it wasn't feasible. Item  
9 5 doesn't say that it wasn't feasible. Item 5  
10 merely states that the -- that the -- we ques-  
11 tioned the economic conclusions, and does not  
12 in any way say it isn't feasible.

13 Q Weren't you saying in that Item that Marcom  
14 in proposing 1700 units of housing at Mitchell Field had  
15 failed to take into consideration some very basic economic  
16 facts of life?

17 A No, what we said was that they were using figures for  
18 construction costs that were completely out of line, but they  
19 were using figures of \$30,000, \$40,000 a unit, which at that  
20 time was certainly not the cost of building an apartment unit.

21 Q Didn't you also say that the provision in the  
22 Marcom report which imposed upon the developer the obligation  
23 to build schools, made the whole thing impracticable?

24 A No, we did not say that.

25 Q Well, did you say --

1 13 Blankman - cross

2 A We said --

3 Q I'm sorry, go ahead.

4 A We did not say that. We said that -- that it would be  
5 impossible to expect the builder to build building apartments  
6 and rent them at a profit, and build schools. That's all we  
7 said --

8 Q Wasn't --

9 A We only questioned -- We only questioned the fact that  
10 Marcom made statements like this in their report that had no  
11 economic validity to it. That didn't mean in any way that  
12 housing was unfeasible.

13 Q We are dealing with the Marcom report?

14 A Yes.

15 Q Housing as recommended by Marcom was unfeasible,  
16 wasn't it? Just Marcom now.

17 A No, I wouldn't say that. I would only say not that the  
18 housing they recommended was unfeasible, but the figures and  
19 the statistics that they used were not valid.

20 Q Now, when you wrote in this report, Number 5-A,  
21 "The assumption that the developer will build the schools at  
22 his own expense is invalid, because it means that he would  
23 have to work for a net profit of probably as low as one-and-a-  
24 half percent," were you basing that information upon some other  
25 source than your own experience?

1 14

Blankman - cross

2 A What do you mean by my own experience, Mr. Jaskan?

3 Q As a builder.

4 A You're talking about me personally?

5 Q Right.

6 A Not at all. This report was worked on by all the  
7 members of our committee, and including the gentleman who  
8 was most expert in -- in apartment building, and that was  
9 Richard Mayes of Levitt & Sons.

10 Q And as a matter of fact, didn't Mr. Levitt send  
11 you a memorandum on this subject?

12 A Mr. Levitt?

13 Q Mr. Mayes?

14 A Yes.

15 Q I show you this memorandum and ask you whether  
16 that's it?

17 A Yes, that's -- I remember receiving this.

18 MR. JASPAN: I ask that it be marked  
19 in evidence.

20 MR. BELLMAN: No objection.

21 MR. HYMAN: No objection.

22 THE CLERK: Defendant's Exhibit Y in  
23 evidence.

24 (So marked.)

25 (continued on next page.)

\*\*\*\*

2 fls



FL/LH  
2/2

Blankman-cross/Jaspan

1 1

2 Q Now I show you defendant's Exhibit Y on the  
3 stationery of Levitt & Sons, and I call your attention to a  
4 number of things in this letter. Number one, on Page 1 is  
5 a statement that "Taxes from the residential complex would  
6 add about \$5,000,000 per annum to the school district, which  
7 is a 50 percent increase over present revenues of \$10,000,000"

8 Is that fair?

9 A That's what is states here, yes.

10 Q Wouldn't that make the project unfeasible, if  
11 that's the right word? Impracticable?

12 A Not in any way. One thing doesn't follow the other in  
13 any way.

14 Q Would that be of any significance that the school  
15 district taxes would go up \$5,000,000 with these 1700 units?

16 A School -- as I understand that, you have picked -- you  
17 have picked a sentence out of a report, Mr. Jaspan. I  
18 haven't looked at that report for -- for two or three years,  
19 and I'd have to read the whole context of it; but as I  
20 understand what you have just read, Mr. May suggested that  
21 the residential -- if I see that one sentence there, that  
22 that would add revenues.

23 Q Well --

24 A It would add revenues.

25 Q -- I'm going to let you read it, Mr. Blankman, but

2 Q Well, let me read it to you, maybe I didn't  
3 understand it.

4 E, the first phase of the plan provides for  
5 1700 apartments of which 1200 are to be for low and moderate  
6 income. However, the taxes apparently projected from these  
7 units would necessitate rent that would be too high under  
8 current Government assistance programs.

9 A Yes, Mr. Jaspan. I thought I made myself clear what  
10 we are saying is not that it's unfeasible to build the units  
11 but Marcom's figures were invalid.

12 In other words, they were using rents and total  
13 construction costs that were completely unrealistic.

14 Q As a matter of fact, Mr. Blankman, didn't you  
15 then conclude that all building should be deferred including  
16 housing?

17 A We --

18 Q Answer the question, did you or did you not?  
19 Look at Page 3. The middle of the page.

20 A What is the question?

21 Q Did you not say all building should be deferred  
22 until a new plan is --

23 A Yes.

24 Q All building including housing?

25 A That is correct.

1 2 Blankman-cross/Jaspan

2 Q Did you also not say in this report that hous-  
3 ing should be a regional matter and should not all be placed  
4 in Mitchell Field?

5 A We certainly did.

6 Q You issued a release at the time the report of  
7 March 19th was issued and it was published, was it not? Do  
8 you recall?

9 A Which release?

10 Q Let me show you this, did you issue this release:

11 A (No response.)

12 Q News release.

13 A Yes, that looks like the Long Island Association. When  
14 you say "You," I didn't know who you meant by you. The Long  
15 Island Association.

16 Q Did the story appear in the papers on the same  
17 day with your name in the headline?

18 A I didn't know the date but the date refers to the same  
19 date as this, that is correct.

20 Q Isn't the date on the side?

21 A June 19th. I don't recall what the date of that was.

22 Q The date on the release.

23 A Yes, same time.

24 Q Now, isn't it a fact that in this newspaper  
25 story, Mr. Sweeney who is the President, then the President of



1 3

Blankman-cross/Jaspan

2 Mitchell Field Development Corp., took issue with you on your  
3 report?

4 A I haven't read it, but if you say that he did --

5 Q Do you recall if he took issue?

6 A I think Mr. Sweeney disagreed with portions of our  
7 report, yes.

8 Q Disagreed as President of the Mitchell Field  
9 Development Corp.?

10 A Yes.

11 Q And that was not set up by Mr. Case?

12 A No. Mr. Case appointed three members to it.

13 Q The majority was set up by Mr. Nickerson?

14 A I believe that is correct.

15 Q And set up in the Nickerson administration?

16 A That is correct.

17 Q And didn't they say at that time not only do  
18 they think you are wrong but Mr. Casey thinks your wrong?

19 A Who said that?

20 Q Mr. Sweeney. Let me refresh your recollection  
21 by showing you this article here.

22 A Mr. Sweeney said that. Of course that -- I don't know  
23 what you are trying to prove by that.

24 Q Doesn't he quote Mr. Casey also saying you are  
25 wrong?

1  
2 implement those plans.

3 Q It had nothing to do with your satisfaction  
4 or dissatisfaction with Marcom?

5 A No, not at all.

6 Q You heard Mr. Blankman on the stand?

7 A Yes, I did.

8 Q He was dissatisfied with Marcom?

9 A Yes.

10 Q Did you agree with him?

11 A Absolutely not.

12 Q You were quoted in the Newsday article as  
13 saying the location agrees with you; was that a good  
14 quote?

15 A I don't remember that independently, but if  
16 Mr. Casey said that, he shows wisdom.

17 Q So you and Mr. Blankman did not agree, then?

18 A No, we did not.

19 Q And probably do not agree now?

20 A We do not.

21 Q And many people do not agree as to what  
22 should be done at Mitchell Field?

23 A Well, I think there is some general agreement, and  
24 I think there is some disagreement.

25 THE COURT: That's why we're here.

Otherwise you could have stayed

in Nassau.

BY MR. JASPAN:

Q Was there some talk about limiting the development of the Nassau Center to ten percent of the land coverage, thereby maintaining the suburban character?

A There wasn't some talk; that was one of the guiding precepts of the plan that we published.

Q And it was in your July, 1969, report, was it not?

A Well, it's also in the earlier report.

Q So what did you mean by suburban character?

A The openness, the open feeling. Most people feel that if you cover a lot of the ground with building structures, you can't see open space, then you've got the city feeling, whereas if you have open space in-between, where you've got open area and freedom from movement, you've got a suburban feeling. That was the intention.

Q Isn't it a fact that a lot of the people who lived in the county and in the area wanted a suburban character to their community?

A Absolutely.

Q And isn't that the ground upon which they



at least expressed their opposition to high-rise, high-density housing?

A Well, yes, they did, sure.

Q That wasn't racial in itself, was it?

A Racial in itself?

Q Yes.

A No.

Q Now, the July, 1969, report on page 11, if you will look at it -- what's the letter on top of it?

A The letter?

q Yes, the yellow sticker.

A 59, Exhibit 59.

Q Yes, Exhibit 59 in evidence.

A What did you say, 11?

Q Page 11. Would you read the first two sentences of the first full paragraph?

A "A correct understanding of the financial potential of Nassau Center leads East Meadow residents, with their narrow tax base, to suggest that some fair means of distribution of tax revenues to other communities should be evolved. The corporation has explained that it is bound by the law to the same extent as any private developer, and consequently tax revenue would go to the district in which the land is located."

1  
2 Q Now, isn't it a fact that the people from  
3 East Meadow were complaining about the tax burden of new  
4 school children?

5 A Oh, no, their complaint was that they weren't get-  
6 ting any of the commercial development within the East  
7 Meadow School District to help them with their tax  
8 problem.

9 Q Did you propose housing in the East Meadow  
10 area?

11 A No, we did not.

12 Q Did Liu?

13 A No, there was never any proposal for that area.

14 Q And you do not now propose housing for the  
15 East Meadow area?

16 A I stopped studying the area, so I wouldn't have any  
17 right to propose anything.

18 Q Now, we talked about the park, 67 acres. I  
19 just want to let you look at that map for a moment. Does  
20 the part of the land acquired from New York State Parkway  
21 Commission --

22 A I don't -- I think there was. I'm not certain of  
23 that.

24 Q That 47 acres over here?

25 A I don't remember that specifically.

Q But it was in this place where I'm pointing to?

A Yes.

Q The right-handside of this map?

A Yes.

Q And wasn't the 67 acres which came from the government a separate, independent piece?

A I really wasn't involved in that acquisition so I'm just -- I'd be guessing at it.

Q Well, were you implying at any time that the 67 acres were acquired from the government should be swapped off for the New York State park area?

A No, the -- the point that we were making in terms of -- You're getting to the question of building on the parklands, is that the point?

Q Right. There was some statement you made I didn't understand.

A The point I was making there was that we fully recognized that some of this land had -- had been acquired with restrictions for park or educational uses only.

It was our intention that should not be an inhibiting force on the part of development of the total 500 some-odd acres, that we should plan the development of those total -- the total acreage with a view toward what would



1  
2 be best. Then we would go to the Federal government and  
3 swap off that property which we paid without discount  
4 full value for, we would take a restriction, and that  
5 would be used for -- in satisfaction of the -- of the park  
6 requirement.

7 Q Wasn't the Mitchell Field Development  
8 Corporation warned early in 1968 that delay in making that  
9 swap, or in the purchase, is going to increase the cost of  
10 the land, so as to make it prohibitive to acquire?

11 A I wasn't there in early '68, so --

12 Q Well, I show you these minutes and ask you  
13 whether these are minutes from the files of Mitchell  
14 Field Development Corporation?

15 A It has the right names and everything.

16 MR. JASPAN: I offer it in evidence.

17 MS. THOMPSON: I have no objection.

18 MR. JASPAN: January 29th, 1968.

19 THE CLERK: So marked, Defendant's

20 Exhibit AA in evidence.

21 (So marked.)

22 BY MR. JASPAN:

23 Q Now, Mr. Sweeney, I call your attention to  
24 a motion made in January of '68, which ways, "resolved  
25 that the Corporation recommend to Nassau County that

1  
2 the parcel 14 be acquired immediately from the Federal  
3 government at the full price, so that its future use will  
4 be unrestricted and the County will not be prejudiced  
5 by sharp increases in value in later exercising a right  
6 to unrestricted use by restoring the discount of the then-  
7 full market price."

8 Were you familiar with that at all?

9 A No.

10 Q In any event, the Mitchell Field Development  
11 Corporation never proceeded with that; did they?

12 MS. THOMPSON: Your Honor, he's just  
13 said that he's not familiar with it.

14 Q At a later date, did you become familiar  
15 with this?

16 A With this particular point?

17 Q Yes, this resolution?

18 A Not this resolution in itself, no. But the point  
19 that I made about swapping off the land was something we  
20 were --

21 Q In any event, the county never went and  
22 bought back the land at its then value?

23 A No.

24 Q So it remained with restriction?

25 A Yes, the restrictions are still there, as far as

I'm aware.

Q Yes, they are. And Marcom built over the restrictions, didn't he?

A No, the Marcom plan was put there with full recognition that we'd have to go to the Federal government and swap the restrictions. The plan was never implemented.

Q Liu built over the park, too, didn't he?

A Yes, that was an implementation for the Marcom plan.

THE COURT: All right, recess 'til tomorrow morning, to what did I say, 10:30?

MR. JASPAN: 10:30.

THE COURT: Listen, make it 11:00, because Mr. Hyman doesn't know whether Judge Weinstein will be through with him by 10:30.

(Whereupon at 5:15 the trial was adjourned to 11:00 a.m., the following day.)

\* \* \* \* \*



8

Purcell - direct

we have a unique situation in that in many places in a community, there could be a minority concentration and still be a -- and I often wondered about this word "minority", minority of what? Let's get it down to that, minority of what; what do you mean?

Q Specifically, were these in sites and areas which had concentrations of black and Spanish-speaking people?

A Were they or were they not?

Q It's true that --

A Well, I would say once again you don't understand the area. We have concentrations of black people in communities and yet they are white communities, so-- see we have a great deal of mixture of people in our town.

We have 72 percent of the black people in the Town of Hempstead of all of the County of Nassau, so we're well aware -- we're -- our direction of integration has been a great deal better than most other parts of the nation.

In fact, if the whole nation had moved as we had moved in the Town of Hempstead, and specifically in the Town of Hempstead, this nation would be on the right course.

So it's hard to categorize just what you are saying there.

Q Well, it's true, is it not that the Town of HEMPstead has in its total population less than five percent of its total population black?

A We have 72 percent of the black people of the County in our community, and I would say that we are probably five percent plus or minus of -- of black people, yes.

Q It also is true, is it not, that there are areas of black and Spanish-speaking racial concentration in the Town of Hempstead?

A Yes, within white communities, though. And I think that's important to emphasize that.

Q And --

A The concentration of the black people in certain communities has been of their own choosing and something that they haven't been pushed into because they have their own right to buy those homes in that community.

Interesting to note that 65 percent of the black people in our town own their own homes. So they didn't ghettoize themselves, you know, by force, they ghettoized themselves by choice.

And I think this is important to recognize that.

Q Now, Mr. PURcell, when you speak of the areas of black concentration within the white community of the town, what areas are you referring to?



A I would say that the concentration in Hempstead, Freeport, Roosevelt, Inwood and Uniondale are primarily where the -- and Lakeview, which is part of my community. That's the largest concentration of black people.

Q Now, do you know whether the Caso scatter-site program proposed any sites to be developed in the black areas in any of the communities which you have just described?

A Yes, it did.

Q Let me show you Plaintiff's Exhibit 33 and ask you to identify which of the sites were in areas with black concentration?

A Well, I know that in Mr. Caso's program of 700 units three or four hundred of them were in the Village of Hempstead, over which we had no control. It was an erroneous portion of the report.

But the village of Hempstead would be one of them. The Bellemore one, which is site No. 1. And I think it is one of those which we tried to move head on. I believe that in that particular area that there probably were some black people living there but it certainly wasn't what we would call a black community, it was an integrated community.

In Seaford there is a white community predominantly. The second one in Seaford is also predominantly white.

North Bellemore site No. 4, Site No. 4 would be more catagorized as I put the first one, where there were



1 7

Leifels - direct/Jaspan

1302

2 Q 15,900,000?

3 A I have notes here -- 15,900,000.

4 Q How is the school financed?

5 A Through State aid, a small amount of Federal aid, and  
6 mostly by local taxation.

7 Q Is the school known as a flat grant school?

8 A Yes.

9 Q Would you explain a flat grant to the Court?

10 A Well, under the State aid formula based -- Aid is  
11 based on the wealth of a district --

12 We have a formula where the average wealth, district  
13 distribution, is roughly 51 percent.

14 Part of that formula is based on full valuation for  
15 each child. So, in other words, the wealthier you are, the  
16 less aid you are entitled to.

17 If you can visualize a straight graph going down -- when  
18 you reach a certain wealth, you get \$300, regardless of your  
19 wealth. We are at the borderline.

20 Q So you don't get additional State aid if there  
21 is an adjustment in your budget?

22 A We will not.

23 Q So, a percentage of the budget has to be raised  
24 by local taxation?

25 A Yes.

8 Leifels - direct/Jaspan

Q And what is the amount raised by local taxation?<sup>1303</sup>

A The actual dollar amount?

Q Do you have it?

A I have it in my briefcase.

Q Would you get it, please?

A Yes.

(Witness complies)

A For the forthcoming school year, the amount to be raised will be \$11,467,000.33.

Q Is that money raised by a taxation on real property within the school district?

A Yes.

Q Now, as part of your budget, do you provide special services for some students?

A Yes.

Q What type of special services do you provide?

A We have contracts with the Board of Cooperative Education Services, and we contract for special education, mentally retarded.

Q Now, the Board of Cooperative Education Services, is that generally known as BOCES; B-O-C-E-S?

A Yes.

Q Have you computed out the average cost for the education of a child in the Uniondale School District?

9

A May I refer to my notes again?

Q Please do.

A Our cost is \$2,239.

Q And what portion of that cost do you receive from the State of New York.

A \$310.

Q And does that leave a cost of \$1900 per student to be raised by local taxation?

A Yes.

MR. BELLMAN: I might have missed the figure before.

MR. JASPAN: \$2,239, less 310. The actual mathematics make it \$1929 per student.

MR. BELLMAN: I thought he said 2,030.

MR. JASPAN: No.

(continued on next page)



DIRECT EXAMINATION

BY MR. JASPAN (continuing):

Q What is the present tax rate for school district purposes?

A Estimated for next year -- the current tax rate is 11 and 27 cents on a hundred.

We estimate for the next year, the tax rate to be set August 15, \$11.58 on a hundred.

THE COURT: On real estate?

MR. JASPAN: Only for school taxes.

THE COURT: For school taxes?

THE WITNESS: Yes, sir.

THE COURT: That is tremendous.

MR. JASPAN: I might say for the record that we do not assess at full value.

THE COURT: I know. You have equalization value.

MR. JASPAN: The equalization rate.

THE COURT: Do they work on 94 percent equalization?

MR. JASPAN: I am not sure.

The Board of Assessors, if I may say, fixed equalization rates for the past year at 29 percent.

Leifels-direct

THE COURT: Yes. They have a table  
they go by.

DIRECT EXAMINATION

BY MR. JASPAN (continuing):

Q How many schools are there in the Uniondale  
District?

A Nine.

Q How are they broken up?

A One senior high school, grades ten through twelve;  
two junior high schools, grades seven through nine; and six  
elementary schools.

Q Is there any excess capacity in those schools?

A No.

MR. BELLMAN: That is a leading question.

THE COURT: He said "no."

BY MR. JASPAN:

Q Are you saying, Dr. Leifels, that each of  
the classrooms are presently occupied by students to their  
fullest capacity?

A Yes.

Q Do you have a capacity for any significant  
number of additional children?

A No, we do not.

Q Now, what would be the result, if there were 1100

children added to the school district?

A You mean

Q Additional children?

A We would have to build.

Q You would not be able to accommodate them within the present school system?

A Absolutely not.

Q And would that 1100 school children cost you some \$1,929 each, per child?

THE COURT: As of today's going rate?

THE WITNESS: Yes.

Q That would be over and above the cost that you presently have for the operation of the school?

A Right.

Q Have you computed out --

MR. BELLMAN: Objection -- "over and above" --

MR. JASPAN: The present cost of operating the school.

THE COURT: I don't know what that means, either.

BY MR. JASPAN:

Q Well, would this impose a new and additional financial burden on the school district?



Leifels-direct

MR. BELLMAN: I object to that.

THE COURT: I think that was the question as to constructing the schools --

MR. JASPAN: No. I am saying, if there were 1100 children and the cost for each child is \$1,929, they would have to provide that cost.

MR. BELLMAN: It is a meaningless statement. It does not deal with additional revenues available.

THE COURT: That would follow on a deductive basis.

Whatever the cost be per student to go into the school would be passed on to the taxpayer as a school tax.

MR. BELLMAN: But it is speculative.

MR. JASPAN: Wait for cross-examination--

MR. BELLMAN: There is no basis for this --

MR. JASPAN: This witness testified --

THE COURT: Please. We are doing very nicely without arguing.

MR. JASPAN: He raised the objection. We said that school taxes were important.

Well, now, we probably lost the question--

Leifels-direct

1309

THE COURT: How do you know?

Ask the next question.

Do you remember the question?

THE WITNESS: Yes. Would we have to raise the additional \$1900 per child and the answer is, yes.

BY MR. JASPAN:

Q So there would be an increase in maintaining your school system?

A This is current operating costs. On top of this, there are additional things.

Q Do you have land in Uniondale, upon which you could construct additional buildings?

A No, only the Mitchell Field.

Q So, any schools would have to be built at Mitchell Field?

A At this point, we would say so, yes.

Q Have you computed out how much the tax rate would increase, if increased at all, with the addition of 1100 school children?

MR. BELLMAN: Now, that I object to.

There is absolutely no foundation for this witness to make any statement that he knows what the additional tax increases



Leifels-direct

would be without any foundation as to what would happen in the county if Mitchell Field is going to give ratables. It is totally abstract.

THE COURT: He is taking current statistics and applying only current statistics.

MR. JASPAN: No matter what the rate would be, there would be an additional cost factor.

MR. BELLMAN: Now, Mr. Jaspán is testifying.

THE COURT: Let him ask him.

MR. BELLMAN: Is the question, if you just impose an additional burden of 1100 students without ratables?

MR. JASPAN: Let me ask the question.

MR. BELLMAN: I object. There is no basis or foundation.

THE COURT: I will allow it.

BY MR. JASPAN:

Q Have you made such computations?

A Yes -- without building costs?

Q Yes.



What is that computation?

A Based on current assessed valuation, \$2.11 increase.

Q Per hundred?

A Yes.

Q That would be reduced by assessed valuation from the construction of new houses?

A Yes.

Q And if that were subsidized housing, that would represent assessed valuation -- one figure --

MR. BELLMAN: Objection. What does that mean?

MR. JASPAN: Let me develop it.

MR. BELLMAN: I object to the question.

THE COURT: I will allow it.

BY MR. JASPAN:

Q If they are subsidized housing, do you get full --

A We have no such housing, so I don't understand.

Q Have you made computations as to the income to be derived from the housing itself?

A No.

Q Is it your experience that housing produces more expenses than income?

MR. BELLMAN: Objection.

1                   Leifels-direct

2                   THE COURT: I will sustain that

3                   objection.

4                   BY MR. JASPAN:

5                   Q           Now, has the school board taken a position  
6                   with respect to the construction of additional housing at  
7                   Mitchell Field?

8                   A           Yes, it has.

9                   Q           What is that position?

10                  A           Well, the School Board supposition -- I will have  
11                  to define it a little bit more narrowly --

12                  Q           Surely?

13                  A           We are not opposed to kids, is what I am trying to say,  
14                  but any large-scale housing at Mitchell Field; put it that  
15                  way.

16                  Q           What is the basis for that objection?

17                               MR. BELLMAN: Objection.

18                               If there is a resolution of the school  
19                               board, he is a superintendent, and the question  
20                               as to the school board -- are we talking about  
21                               an official position adopted by the school  
22                               board?

23                               I would like to voir dire the witness--

24                               THE WITNESS: The school board adopted  
25                               that position.

Leifels-direct

MR. BELLMAN: I submit that is not the best evidence. They may bring in the resolution.

THE COURT: You may answer the question.

THE WITNESS: The board took the position-- I can't say in the minutes of the Board of Education -- at the Board table, the Board expressed itself to some of the county officers that it is opposed to any large-scale housing because of school costs, and so on, at the field.

MR. BELLMAN: We move to strike the witness's own answer, as total speculation.

Who indicated to whom?

THE COURT: I will allow it.

BY MR. JASPAN:

Q Now, Dr. Leifels, I have used the figure of 1100.

Do you know how many children would be introduced into the school system of Uniondale if there were 9400 apartments built on Mitchell Field?

MR. BELLMAN: Just yes or no?

THE COURT: Yes: just yes or no.

THE WITNESS: No.

MR. BELLMAN: Thank you.



1 Laifels-direct

2 MR. JASPAN: Please.

3 Your Honor, he thinks this is a  
4 game.

5 THE COURT: It is not. You can take  
6 it from me.

7 BY MR. JASPAN:

8 Q Do you have any idea of how many children are  
9 produced per family?

10 A Yes.

11 Q In Uniondale?

12 A Yes.

13 Q How many?

14 A .8.

15 MR. BELLMAN: Wait a minute. Objection--

16 MR. JASPAN: He said "yes; point eight."

17 THE COURT: Point eight.

18 (continued on following page)  
19  
20  
21  
22  
23  
24  
25

Leifels-direct

DIRECT EXAMINATION

BY MR. JASPAN (continuing):

Q So, if there were 9400 units of housing, there would be .8 times 94 --

MR. BELLMAN: Objection. He just said he didn't know.

THE COURT: Wait a minute and let me figure it out.

BY MR. JASPAN:

Q Now, Dr. Leifels, I show you Defendant's Exhibit P and ask you which -- first of all, do you recognize this as the outline of Mitchell Field?

A Yes.

Q Will you tell me whether all or part of the area contained in the outline is within the Uniondale district?

A No, I think part of that is East Meadow Schools.

Q Would it be that part to the east of Meadowbrook Parkway and south of Hempstead Turnpike that is in the East Meadow district, and all the west in the Uniondale District?

A Perhaps a slice along Merrick, but I can't see it. I am talking of Santini, --

Q Would you come down here and point out



what is in the Uniondale School district and indicate verbally the area you would describe?

(witness complies)

A From what I see here, and I am not familiar with this because I have only seen the map once before, but from the time I have had to look at it, all of it is in the school district.

This side is East Meadow, so everything to the west of the Meadowbrook is in the Meadowbrook School District, and to the east would be the Uniondale School District.

MR. JASPAN: Nothing further.

(Witness resumed stand and further testified as follows)

CROSS-EXAMINATION

BY MR. BELLMAN:

Q Mr. Leifels, you have stated that the Uniondale School District receives a flat grant from the State; correct?

A Yes.

Q And that is as opposed to other districts that receive a sliding scale? I did not understand that. Would you clarify it for me, please?

A Under the State aid formula, a district can receive, theoretically, up to a certain percent of the operating



1  
2  
3 JOHN W. FOLLIS, called as a witness, being duly  
4 sworn by the Clerk of the Court, testified as  
5 follows:

6 DIRECT EXAMINATION

7 BY MR. JASPAN:

8 THE COURT: All right.

9 Q Mr. Follis, are you employed by the County of  
10 Nassau?

11 A Yes, I am.

12 Q In what capacity?

13 A I am the Deputy Director of Planning.

14 Q How long have you been -- withdraw that.

15 You work for the Nassau County Planning  
16 Commission?

17 A Yes, sir, I do.

18 Q How long have you worked for the Nassau  
19 County Planning Commission?

20 A Since October, 1967.

21 Q And have you served in that same capacity  
22 since 1967?

23 A No, I became Deputy Director in August of 1969.

24 Q In what capacity have you served before  
25 1969?

A In the position of Planning Supervisor and Planner 3.



10 Ellis-direct

1  
2 Q Now, did you have any schooling in terms of  
3 planning?

4 A I have a Bachelor of Science degree in land architect-  
5 ure from the New York State College of Forestry in Syracuse  
6 University.

7 Q What other experience have you had, in terms of  
8 planning?

9 A Upon graduation from college in 1956, I spent six  
10 months working for the State of New Jersey as a site  
11 planner and landscape architect.

12 From December of 1956 through the next three years,  
13 I was in the United States Air Force as a navigator and  
14 radar observer. Upon discharge from the Air Force, I worked  
15 for the firm of Harland Bartholomew Associates of St. Louis,  
16 Missouri. I was employed by them for four and a half years,  
17 working on master plans in Missouri, North Carolina, New  
18 Jersey, in New York and Virginia.

19 In May of 1964 I became Assistant Director of Plan-  
20 ning of the Town of Huntington, Suffolk County, and was there  
21 until October of 1967, when I joined Nassau County.

22 Q In the course of your career, did you prepare  
23 a comprehensive plan for a place known as Florissant,  
24 Missouri?

25 A Yes.



Q Will you tell us what you did in that connection?

A That is, included the complete scope of services for a community, which was located outside of the City of St. Louis. This includes the population, traffic, parking, business, schools, parks, et cetera.

Q Did you perform a similar function for the town of Goldsboro, North Carolina?

A My work in Goldsboro was primarily limited to a thoroughfare plan, but did require a review of their comprehensive plan in the updating of certain elements of the plan.

Q Have you also gone, done planning for Huntington, Morristown, New Jersey, and Rochester, New York?

A The total scope of planning services.

Q Have you had other professional experience in the same area?

A Yes, I have. I am also a licensed planner in the State of Michigan.

Q Now, what are your duties as Deputy Director of the Nassau County Planning Commission?

A Well, first and foremost I serve in the absence of the Director. When he isn't there I assume his position.

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Follis-direct

Q And is Hempstead the most dense?

A On a population basis, Hempstead is the most dense of the three towns, yes.

Q Now, are you familiar with the zoning of the Town of Hempstead?

A Yes, I am.

Q What is the zoning?

A The zoning is predominantly 6,000 square feet residential single-family.

THE COURT: 60 by 100?

THE WITNESS: Yes, sir.

Q What is the zoning for multiple dwelling?

A 20 units, total acre, for their standards. And I believe it's slightly higher for the Golden Age.

Q Now, how does that compare with the zoning in other parts of the County?

MR. BELLMAN: Your Honor, that's a little too open-ended.

THE COURT: I think the surrounding area --

BY MR. JASPAN:

Q What is the zoning in the Town of Oyster Bay?

A Oyster Bay has three districts. One is a six-unit total acre, and another is 10 and another 16. And they also



have an S-1, senior citizens, which I believe is 20.

Q What is the zoning in the Town of North Hempstead?

A North Hempstead is 24 dwelling units to the acre.

Q Now, these areas do not include the 64 villages, do they?

A No, they do not. They include them. But the zoning does not cover them.

Q Each village has its own zoning?

A Yes.

Q What is the range of zoning in the villages?

A Oh, down as low as four units to the acre, to a high of 436 units to the acre in Long Beach.

Q Now, in terms of the comparative schools, which of the towns permit the largest number of units per acre?

MR. BELLMAN: Wait a minute.

THE COURT: Towns where?

Q In the County of Nassau.

MR. BELLMAN: We only have three towns.

I object to that question.

Is this the number of acres? Is this just in terms of the zoning ordinances?

MR. JASPAN: I am talking about zoning.

1 Pollis-direct

2 THE COURT: Zoning. I will allow it for  
3 zoning.

4 THE WITNESS: By and large, Hempstead  
5 would.

6 BY MR. JASPAN:

7 Q That has the -- they have permitted the  
8 largest density of housing in the County of Nassau?

9 A With the emphasis on Long Beach being extremely  
10 high.

11 MR. BELLMAN: I am sorry. Maybe I am  
12 not understanding what is going on. But the  
13 question was, what is the greatest--- what town  
14 has allowed the greatest density of development.  
15 And the witness testified to something about  
16 24 to the acre in North Hempstead and 20 in  
17 Hempstead. And now we have a different answer.  
18 I am not --

19 MR. JASPAN: You will have a wonderful  
20 time on cross-examination.

21 THE WITNESS: I am including the  
22 villages.

23 THE COURT: He's talking about the  
24 villages, too.

25 THE WITNESS: In other words, you have



Follis-direct

Rockville Center, Hempstead, Long Beach --

THE COURT: All right, go ahead.

THE WITNESS: Franklin Square -- well,  
not Franklin Square.

BY MR. JASPAN:

Q Now, how many school districts are there in  
the County of Nassau?

A I believe there are 54.

Q And do each of these school districts -- are  
they known as union-free school districts?

A I believe there are some central school districts,  
as well. I don't know the breakdown.

Q How are these school district, financed?

A Through local taxation.

Q Now, do you have information here as to the  
age of the population in Nassau County in any recent times?

A Yes, I do. I have the data from the 1970 census in  
which I graphically -- I have a graph over there which  
displays it.

We have the age groups by population, by age co-ord,  
which is contained on page 20 of the document, which was  
admitted into evidence some time ago, I believe.

Q Is that the Nassau County Community Planning?

A Yes.



Follis-direct

Q I say it's number 14.

MR. BELLMAN: Ten.

Q Exhibit number 10. Does that information show a trend in Nassau County?

A Yes, it does. It shows an aging trend. The population growing older. As you can see by --

Q I show you this chart and ask you whether that depicts the trend as you have seen -- as it is expressed in Plaintiff's Exhibit 10 in evidence?

A Yes. It shows that in 1960, the blue line, and the orange line in 1970, as you can see, the co-ord of all -- shall I use the term, walk forward, to the point where now every age group is a little bit older. And the young group is particularly lower than it was in 1970. Zero to four is substantially lower than the zero to four's were in 1960.

You can see over here, the 45 to 55, the 60 to 65, 70 to 75 are all substantially higher than they were in 1960.

Q Now, for senior -- for the purpose of senior citizen housing, persons over 62 years of age or over, those eligible for senior citizen housing, is it your testimony that in that age group, there is a number of -- there is an increase in that age group in Nassau County?

A Not only was there an increase, but it exceeded our

estimates by 18,000. In other words, we made population estimates -- our demographers did, and when the actual census came out in 1970, we had erred by 18,000 in the senior citizen category.

Q In other words, there were more senior citizens than you originally thought?

A Yes.

Q Have you made any study to determine the residential source of the senior citizens who have been admitted to the golden age homes or the senior citizen homes financed by the municipalities?

A Not specifically. The 1970 census did, however, indicate the type of housing that senior citizens were living in, 1970. And it found that 70 percent of the senior citizen families were living in single-family homes and owned those homes.

Q So that the senior citizens who were admitted to senior citizen homes, subsidized senior citizen apartments, came out of one-family homes they owned?

A If you can assume the ratio of 7 out of every 10, yes.

Q Is that 70 percent?

A Right. Seven out of ten.

Q So when a senior citizen moves from his home



into a senior citizen complex, a home became available, did it not?

A Yes, sir.

Q Now, you have with you statistics as to the black population in Nassau County?

A I believe that again, a full report was issued by the Nassau Suffolk Regional Board, which would outline all of the characteristics of the black population. I didn't bring one with me, but I am sure there's one here.

MR. BELLMAN: Here it is.

MR. JASPAN: Exhibit 4 in evidence.

BY MR. JASPAN:

Q Now, with that information, can you tell us what the trend was between 1965 and 1970?

A Well, the increase in non-white population between 1965 and 1970 -- this would include both immigration and birth for non-white, was 19,002. During that same period of time, the increase in white population was 11,351, for a difference of non-white versus white of 7,651.

Q So that in that period, you had a greater increase in population per person, in terms of the non-whites than we did for whites?

A That's correct.

Q Now, do you have an analysis of ownership by



ethnic group?

A Yes, I do. We found that in -- and I'll make a comparison of 1960 to 1970, to make it a little more relevant -- in 1960, 84.8 percent of the white population owned its homes, and 51.3 percent of the nonwhite population owned their homes. Those were raw numbers of 288,000 versus 4,120.

In 1970, the white population ownership was 81.9 percent, as compared to 55.4 percent for nonwhite, an increase of nonwhite ownership of about 5400 units. Ownership.

Q So that between 1960 and 1970, the 54 additional housing units were owned by non-whites?

A That's right. I also had the data for the community of Uniondale and East Meadow, if it's relevant.

MR. HYMAN: 5400?

THE WITNESS: Right.

BY MR. JASPAN:

Q What was the situation there?

A In 1960, in Uniondale, there were 44.26 white ownership and 216 nonwhite.

In 1970 it was 4485 white and 362 non-white, an increase of nonwhite of 146 home ownership.

And in East Meadow, it was 9967 white in 1960 and 12 non-whites. In 1970 it went to 2,521 whites and 35 non-white.

Now, these are not necessarily coincidental with the school districts?

Q Why? Because the lines for the villages are not --

A These are in --

Q They are not comingled with the school districts?

A These are in the unincorporated places.

Q Now, during the course of this trial, we have heard testimony that certain areas are impacted racially and might even be termed substandard. And these were Lakeville, Roosevelt, Freeport, Hempstead, Long Beach, Inwood and Rockville Center, among others. Would you describe these communities to the Court, as I repeated this list?

First take Lakeville. What kind of homes are there, and how would you describe it?

A Lakeville is a single-family community. It doesn't really have a center per se. It's -- I guess it's one of these places that needed a name, and so they gave it one. It's sort of north of Malverne and is bordered on the north by the parkway, Southern State Parkway. So that Lakeville, you hardly know it exists as you drive through it. You wouldn't know it was really there.

Q But what would be the physical description



1  
2 of the area?

3 A Single-family, modest housing.  
4

5 Q Is it a slum in any sense?

6 A No. There may be a house here and there that needs  
7 repair, or that could be called deteriorating, but hardly  
8 a slum.

9 Q Is Lakeville considered part of the Malverne  
10 area?

11 A Yes.

12 Q Would you consider them both an integrated  
13 community?

14 A Yes. They don't have the same school district.

15 MR. BELLMAN: Objection, your Honor.

16 I don't understand that.

17 MR. JASPAN: Well, if you lived out  
18 there, you might.

19 MR. BELLMAN: What is considered an  
20 integral area? The question --

21 THE COURT: He's not talking about people.

22 MR. BELLMAN: He just asked whether it's  
23 racially --

24 THE COURT: He's talking about area, not  
25 people.

(continued on following page)



1  
2 MR. BELLMAN: Well, Nassau County could  
3 be considered integrated with having blacks and  
4 whites living in the county.

5 THE COURT: We are not talking about that.

6 MR. JASPAN: If your Honor please, I am  
7 talking now about communities in which the plain-  
8 tiffs have designated as having a -- being  
9 racially impacted, and I am trying to show that  
10 with rare exceptions these are not --

11 THE COURT: I will allow it.

12 THE WITNESS: It would be very difficult  
13 if someone put you in a car and you drove through  
14 to say where does Malverne begin and Lakeville  
15 end.

16 BY MR. JASPAN:

17 Q All right. Both Lakeville and Malverne go to  
18 the same school district, do they not?

19 A Yes.

20 Q Now, describe Roosevelt?

21 A Well, Roosevelt is again an area that has developed.  
22 It has developed very early in Nassau's development with fairly  
23 reasonable housing. I would say less than \$10,000 at its  
24 original cost.

25 Again, it does not have any real center. It is

A series of strung out commercial.

We did some detail analysis of Roosevelt in an in-house study. And the Roosevelt CEO I guess saw fit to accept our data and published a recent report. And in that report they quoted our study. And they found that --

MR. BELLMAN: Objection, your Honor.

If he has information he can testify to it. He doesn't have to read his information in another study.

Q Do you have to refer to that book to refresh your recollection?

A Yes, I do. Because I don't have it written down anywhere else.

THE COURT: You can do it.

MR. BELLMAN: It's not relevant in another study.

THE WITNESS: Well, it's source to us.

Our field survey which was conducted in March, 1972, which is on Page 17 of the Roosevelt statistical Profile Study by the Research Development of the CEO of Nassau County, Inc., found 3129 sound houses, 70 houses in declining condition, 50 houses in a deteriorating condition, and 16 dilapidated.

MR. BELLMAN: I move to strike this testimony. There is no foundation as to what



kind of survey, what was done, when it was done,  
by whom, under what conditions, with what purpose.

THE WITNESS: It was done --

MR. BELLMAN: I move to strike it.

And just answer questions, please.

THE COURT: When was it done?

THE WITNESS: It was done in March of 1972  
by the staff of the Nassau County Planning Commis-  
sion under my direction.

BY MR. JASPAN:

Q Tell the Court how that inspection was made?

A Two of my staff people got in an automobile and they  
drove through the entire community of Roosevelt and on an  
windshield inspection, delineated on a map which house they  
determined to be sound, deteriorating or dilapidated, using an  
established criteria, I might say.

Q What are the established criteria?

A Well, when you view a house you look at several things.  
Are the walls plumbed, are the foundations cracked, are the  
steps falling apart, are the windowpanes broken, broken windows,  
door jams rotting or missing, are the doors slung off, the  
general characteristics of the house, the yard, is it solid  
and stable, is the chimney cracked, bricks missing, is the  
chimney sloping to one end, are the leaders gone from the roof,



are there shingles missing from the roof, can you see through the building. Things like this.

Q Now, would you answer the same question with respect to Freeport.

MR. BELLMAN: What is the question?

MR. JASPAN: The question is, will you give us a physical description of Freeport.

THE WITNESS: Freeport is located on the Sunrise Highway. It is a main station of the Long Island Railroad. It is a -- what we would call a central business district, CBD. There is a broad scope of characteristics, the population bearing from low income to quite high income. Pretty much a typical Nassau Community.

BY MR. JASPAN:

Q What percentage of the population of Freeport is non-white?

A I have to look that one up.

18.49 percent Negro. .71 percent other.

Q So that more than 80 percent of Freeport is white, is it not?

A 80.8 percent is white.

Q What is the physical description of the Village of Freeport?

A Essentially in very good shape.

Q One family for the most part.

A Yes. With the exception of some Garden Apartments immediately surrounding the railroad station and several Urban Renewal Projects underway in the form of Garden Apartments in what I think is called the Bennington and Liberty Park areas.

Q Now, with respect to the village of Hempstead, will you tell us what the ethnic makeup of the village is?

A Hempstead is 67.19 percent white.

Q And is the rest non-white?

A Right. Non-white and Negro and other.

Q Will you describe the Village of Hempstead -- not the Town of Hempstead -- the Village?

A The Village of Hempstead is located at Peninsula Boulevard and Hempstead Turnpike. It has a very substantial central business district. Historically it was probably the prime central business district of Nassau County. In the early days everyone went to Hempstead to shop. With the advent of the shopping centers at Green Acres in Valley Stream and Roosevelt Field in -- I'll call it Garden City -- there was a move away from the center of Downtown Hempstead.

At that point in time the Village Fathers made a decision -- to help to spread out the business district



Long Beach was a summer resort area along the line of Atlantic City where people went to beach clubs and spent their vacations in Long Beach. I think with the advent of air travel and the closeness of the Island to Miami Beach, etc., there were -- the role of Long Beach as a vacation area declined. As a result many of these summer clubs and former resident hotels have been converted to senior citizen hotels. And at this point in time Long Beach has a very substantial number of senior citizens. I believe off the top of my head it's in excess of 3,000 living in these hotels that have been converted to senior citizen uses.

But again Long Beach has quite a diversification of population.

BY MR. JASPAN:

Q What is the ethnic population of Long Beach?

A 92.8 percent white. It also has an Urban Renewal Project.

Q Is it a large project?

A Average.

Q Now, would you describe Inwood in terms of its economic makeup and physical layout?

A Inwood is a -- let me give you the racial composition of that while I have it. 76 percent white. 76.01 percent white.

Inwood is a community that lies in the runway of



1  
2 JFK. It is down in the Southwest portion of the County. It's  
3 a somewhat older community than the rest of Nassau. It  
4 developed early as the population moved from west to east.

5 I think you have to call Inwood an old guard  
6 type of community. The original Italian Portuguese mixture  
7 of people, the people who came to the area who still remain  
8 there.

9 Q A lot of Albanians there?

10 A I don't know.

11 Q In any event, it's substantially a white  
12 community, is it not?

13 A Yes.

14 MR. BELLMAN: I think the figures speak  
15 for themselves.

16 THE WITNESS: Less so than some of the others  
17 I have mentioned.

18 And also there is an Urban Renewal Project  
19 in Inwood.

20 Q How would you describe that project?

21 A Again, average in size. Economics have played a  
22 difficult role in that one.

23 Q Now, do you know, sir, whether when the Urban  
24 Renewal Project was completed in Inwood there were enough  
25 residents there to fill the project or do they have to go out

1  
2 to Queens to get some more in?

3 A I don't know.

4 Q You don't know.

5 Now, we have gone through the major areas  
6 alleged by the plaintiffs to be racially impacted and blighted.

7 MR. BELLMAN: Objection. He is misstating  
8 the record. We have not alleged that all these  
9 communities are racially impacted. The testimony  
10 was that -- and it's drawn on the map that there  
11 are pockets within these various communities  
12 that are racially impacted and have deterioration.  
13 And he's misleading this witness as to the  
14 record. So I would prefer if he would ask the  
15 question and not maintain what the plaintiffs  
16 have proven up to now.

17 MR. JASPAN: I will stand on the statements  
18 I made.

19 MR. BELLMAN: I object to this characterizing  
20 the record.

21 BY MR. JASPAN:

22 Q Now, would you regard any of these areas as  
23 blighted?

24 A No.

25 Q That's based upon your personal knowledge?

1  
2 A Yes.

3 Q Now, have you made an analysis of the welfare  
4 case load as of June of 1973?

5 A Yes, we did. I have a map, --

6 Q All right.

7 A (continuing) down there.

8 (continued on next page)  
9  
10  
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13  
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16  
17  
18  
19  
20  
21  
22  
23  
24  
25



THE WITNESS: This map was prepared --

MR. JASPAN: Can we hang it up for you perhaps?  
Perhaps you can hold it for him.

THE WITNESS: This map was prepared by my  
staff based on material provided by the Department  
of Social Services in Nassau County.

This is done by postal districts and does  
not compare to that map (indicating) which is  
based on the census definition and community tracts.

BY MR. JASPAN:

Q Which one was that?

A The Negro population 1970 map.

Q You are talking about plaintiff's exhibit number  
five?

A Yes, that is correct.

And since when a welfare client goes to social  
services he just gives his address which is East Meadow zip  
code 11554. So it doesn't relate to that map. But what it  
does is it shows the case load in Nassau County by all forms  
of welfare; that is ADC, old age, etc.

It shows that Long Beach has had 3144 cases in  
June. And that is the entire Long Beach Post Office we will  
say.

The next is --

Q Stay with Long Beach for the moment.

A All right.

Q Do those cases include a large number of senior citizens?

A I would say my recollection is it does predominantly.

Q Are those senior citizens white?

MR. BELLMAN: Objection, your Honor.

Now when I object please wait so we can resolve the issue and then you can testify.

THE WITNESS: All right.

MR. BELLMAN: I have some problems your Honor because the witness has testified that he has drawn a map based on figures supplied by another agency. I do not like to be technical. I am sure that Mr. Follis has attempted to characterize the figures correctly. But if he has the figures from the welfare -- welfare testifying here -- let them put the figures in. We are once removed. It is not the best evidence. It is not in the figures he has characterized.

MR. JASPAN: If your Honor pleases, every-time we had a planner here a planner has always taken the available information and has put it into some form that can be described to the Court.



1  
2 This witness has prepared professionally  
3 an exhibit which shows the case load as of June,  
4 1973 so that it is up-to-date.

5 He has the actual figure -- I believe.

6 THE WITNESS: Yes.

7 MR. JASPAN: -- the actual figure in each  
8 area of the number of cases.

9 THE COURT: I will allow it.

10 MR. JASPAN: He know the area of Long Beach.  
11 I am asking him now whether this welfare population  
12 is a black population or a white population.

13 THE COURT: All right.

14 THE WITNESS: I don't really know. All I  
15 know is that characteristically Long Beach is a  
16 white Jewish community.

17 MR. BELLMAN: I move to strike. He said he  
18 doesn't know what the case load, the racial makeup  
19 is.

20 THE COURT: All right, he says he doesn't  
21 know. All right.

22 BY MR. JASPAN:

23 Q Are there a great number of senior citizens in  
24 Long Beach?

25 A Yes, there are.



1  
2 Q And do they have substandard income?

3 MR. BELLMAN: Objection your Honor.

4 THE COURT: If he knows that.

5 MR. BELLMAN: Now wait a minute. Is this  
6 welfare or substandard. There is a whole difference.  
7 And there are people on welfare or is that a sub-  
8 standard -- he has not defined substandard.

9 I object to the question, it is vague and  
10 uncertain. No foundation.

11 Q Would you describe the economic status of the  
12 senior citizens in Long Beach?

13 MR. BELLMAN: Objection your Honor. There  
14 are in evidence the statistics from the census. We  
15 have had welfare here. I don't know what this  
16 witness is doing or what Mr. Jaspan is doing with  
17 the witness.

18 MR. JASPAN: We are trying to show you that  
19 on a geographical basis the welfare case load is  
20 largely -- at least in the majority of cases among  
21 the white population, and that welfare is not  
22 simply a black problem. And I think it goes to  
23 the heart of the case.

24 MR. BELLMAN: And I suggest when the welfare  
25 people were here, we had that testimony. That was

1  
2 their testimony. Mr. Follis is not even an employee  
3 of the welfare department.

4 MR. JASPAN: But he is an employee of the  
5 same County which has the welfare.

6 MR. BELLMAN: By that argument there must  
7 be 100,000 people who can testify here.

8 MR. JASPAN: We have one. He is a planner  
9 charged with that duty.

10 THE COURT: Is he in charge of that matter?

11 MR. JASPAN: He is a planner.

12 THE COURT: What do you mean by a planner.

13 MR. BELLMAN: Your Honor --

14 MR. JASPAN: You asked me a question and Mr.  
15 Bellman is interrupting.

16 THE COURT: Planner of what?

17 MR. JASPAN: The function of the Nassau Planning  
18 Commission as to gather statistics of all types  
19 with respect to the County of Nassau: Wealth,  
20 distribution of people, welfare --

21 THE COURT: You do that out there?

22 THE WITNESS: Yes sir.

23 THE COURT: All right, he may testify.

24 Let's take a recess now.

25 (Short recess.)



(After recess.)

MR. JASPAN: The parties agree that this chart marked welfare case load by postal district prepared by the Nassau County Planning Commission may be marked in evidence as Defendant's Exhibit BB as illustrating the number of welfare cases by postal district.

This exhibit counts all of the welfare cases including old age assistance, aid to the blind, handicapped, and ADC as well as home assistance categories.

(Document referred to received and marked Defendant's Exhibit BB in evidence.)

BY MR. JASPAN:

Q Now, Mr. Pollis, have you prepared a chart indicating family income in Nassau County below the poverty level?

A Yes.

Q What information did you use to prepare the chart?

A I used 1960-1970 data of the U.S. Census.

The red lines indicate the 1960 so called poverty tracts.

THE COURT: All right.

THE CLERK: Map marked as Defendant's Exhibit CC



1 marked into evidence.

2  
3 (Document referred to, being a map, was  
4 received and marked Defendant's Exhibit CC in  
5 evidence.)

6 BY MR. JASPAN:

7 Q Now, from an examination of Defendant's Exhibit  
8 CC what trends or situations are shown by that diagram?

9 A It would show that on the basis of areas, not necessar-  
10 ily numbers, that there has been a marked improvement in the  
11 income level in certain poverty tracts, for instance, here at  
12 4049 and 4050, which was a poverty tract in 1960, now shows  
13 less than 4 percent families with poverty incomes.

14 The only area that has increased is the Lakeville  
15 area where family poverty level is above 10 percent of those  
16 families. Some of them maintain the same. But generally  
17 throughout the county it has been one of improvement.

18 Q Have you prepared some charts with respect to  
19 employment?

20 A Yes I have.

21 MR. BELLMAN: It is not the number of  
22 families. The testimony is the number of areas.  
23 Increase in the number of areas.

24 THE WITNESS: No, this is a percentage of  
25 the number of families, in other words, the

1  
2 people who live in here (indicating).

3 MR. BELLMAN: Just so that the record is  
4 clear, that is correct, it is the percentage of  
5 families but it does not reflect the total number  
6 of families by district or showing an absolute  
7 number of declining families. There may be more  
8 families in the poverty level in 1970 and 1960.  
9 This chart doesn't reflect that.

10 MR. JASPAN: If your Honor please, are we  
11 getting cross-examination in the middle?

12 MR. BELLMAN: I just want to make it clear  
13 so we have no problem.

14 THE WITNESS: The first chart shows the  
15 occupation of employed persons 1950, 1960 and  
16 1970, which shows the changing characteristics  
17 of the people employed who live in Nassau County.  
18 Whereas in 1953 predominant employment was crafts-  
19 man, etc., in 1970 it is now clerical and kindred  
20 workers. That is the column here (indicating).

21 You have craftsmen which has now dropped to  
22 the point they are about tied for fourth place  
23 in Nassau County.

24 It is just a trend from blue collar to white  
25 collar.

1  
2 MR. BELLMAN: No objection.

3 THE CLERK: Defendant's Exhibit DD marked  
4 in evidence.

5 Defendant's EE marked in evidence.

6 (Documents referred to received and marked  
7 Defendant's Exhibit DD and EE respectively in  
8 evidence.)

9 THE WITNESS: This drawing shows for the  
10 year 1972 and in the first quarter of 1973 that  
11 Nassau's unemployment rate has been running ahead  
12 of the other portions of the New York SMSA.

13 MR. BELLMAN: Will you tell the Court where  
14 the figure was taken from.

15 THE WITNESS: This was taken from the State  
16 Labor Department.

17 MR. BELLMAN: All right, no objection.

18 THE CLERK: EE in evidence.

19 THE WITNESS: Has this one been marked in  
20 evidence or not? We talked about it earlier  
21 (indicating).

22 MR. JASPAN: Yes, the age group distribution  
23 that we referred to early in the testimony.

24 MR. BELLMAN: We have no objection.

25 THE CLERK: Defendant's Exhibit FF marked



into evidence.

(Document referred to was received and  
marked as Defendant's Exhibit FF in evidence.)

BY MR. JASPAN:

Q Now, the basis of the information which you have  
charted, particularly Chart EE and DD, would you say that  
Nassau is not the place to come to for a job.

MR. BELLMAN: Objection, your Honor.

(continued on next Page)

1 THE COURT: No, that is for the Court to  
2 determine. I will sustain the objection.  
3

4 Q Would you say that we have a high rate of un-  
5 employment?

6 MR. BELLMAN: Objection, your Honor.

7 THE COURT: The charts speak for themselves.

8 Q Now, Mr. Follis, let's deal with the areas  
9 where housing can be developed in Nassau County.

10 There has been some testimony that some downtown areas  
11 can be rehabilitated for housing.

12 Is that also your opinion?

13 MR. BELLMAN: Objection, your Honor.

14 MR. JASPAN: That is Mr. Kunsig's testi-  
15 mony.

16 MR. BELLMAN: Let him not characterize  
17 the testimony. Let him put questions to the  
18 witness and I think we will move along faster.

19 Q Are there any downtown areas which can be re-  
20 habilitated for housing?

21 A Yes, there are.

22 Q All right, tell us why these areas are prime  
23 targets for rehabilitation for housing?

24 A There are several reasons.

25 First, they are close to transportation. In most cases,

they are immediately adjacent to a Long Island Railroad station which permits people not only the ability to move from New York City, but to move in an easterly direction across the Island even into Suffolk.

Secondly, they are normally on major highways, major east-west and/or north-south highways, which enable us to bring in buses to serve these people.

Q What kind of housing can be built there?

A Generally speaking, it would have to be some form of multiple housing.

Q Now, what areas in Nassau County would you consider good areas for that purpose?

A Well, we considered almost all of the central business districts. I can name several of them. You have got Hicksville, Mineola, Freeport, Rockville Center, Lynbrook, Valley Stream, Long Beach.

Q Would Glen Cove be among them?

A Yes, Glen Cove. Downtown Oyster Bay, if you will.

Q Would this provide opportunities for any substantial number of multiple dwelling units?

A Yes, it would. The number really is a --

MR. BELLMAN: He has answered the question yes or no.

Q Do you have any statistics at this time?



3 Pollis - direct/Jaspan

1421

A Not specifically, no. We did do it --

MR. BELLMAN: Objection to anything else.

Q Now, have you made an analysis of the vacant areas in Nassau County which are presently zones for multiple dwellings?

A Yes, we did.

Q Would these multiple dwellings be apartment houses?

A Yes, they would be.

Q Have you such a chart here?

A Yes, it is on the table there. It says, "Potential Apartment Sites."

Q Now, I show you this chart marked "Potential Apartment Sites" and ask you to tell us, first, how you prepared it?

A What we did was, we had prepared a composite zoning map of Nassau County which outlines all of the land zoned for apartments.

And all the land currently zoned for apartments is shown in the dark blue on this map.

We then determined the areas that were considered to be the central business districts which are zoned in the striped land.

We also went through, and by field survey, surveyed

those areas, those generally predominant single-family areas in the County right now, that we have considered to be soft, and that could be redeveloped with normal expectations. And we showed those by the check pattern.

And we have two other sites which have been the subject of recent discussion in town government, the town of North Hempstead, for so-called plan unit developments, which would be a combination of commerce, jobs, industry and open space, as well as single-family apartment-type houses.

This would be the Port Washington Sand Pits, and the Whitney Payson properties in Manhasset, North Hills.

These are under active consideration by the town of North Hempstead at this time.

Now, so affectively, what this map shows is all the land that is zoned for apartments. All the land that we consider to be in a community that would be desirable for apartments. Those lands that contained deteriorated housing conditions. And some of the open lands that were proper concepts and could provide housing.

The zoning, the dark blue, as it stands today, has sufficient land far in excess of --

MR. BELLMAN: Objection.

MR. JASPAN: He is answering the question.

Why don't you let him finish?

MR. BELLMAN: The question was, Did you



make a study. I have let him go further, but --

1423

MR. JASPAN: Let's mark this in evidence.

MR. BELLMAN: One question.

Is this vacant land, that is, the dark blue --

THE WITNESS: Not in all cases. But is is zoned for apartments. It may be occupied by a laundermat or a one-story retail story.

MR. BELLMAN: Or apartments.

THE WITNESS: No -- or apartments, correct, but --

MR. BELLMAN: We have no objection to the Exhibit coming in.

THE CLERK: Defendant's GG marked into evidence.

(Document referred to was received and marked Defendant's Exhibit GG in evidence.)

Q Now, Mr. Follis, have you made a statistical study of the number of units of apartments that could be built on available land presently zoned for apartments?

A In excess of 24,000 --

MR. BELLMAN: Just yes or no, Mr. Follis.

You understand what is going on here.

Your Honor, could you instruct the witness



1 that we have a system --

2 THE COURT: A yes or no answer, if that  
3 is necessary.

4 MR. BELLMAN: I have the feeling that Mr.  
5 Follis is trying to cut in around my objection.

6 So please don't answer the question and  
7 give me a chance.

8 MR. JASPAN: I think he is rather surprised  
9 that you are objecting, that is all.

10 Q Do you have that information?

11 A Yes.

12 Q Now, how many units of apartments can be built  
13 on these locations?

14 MR. BELLMAN: I will object.

15 THE COURT: I will allow it.

16 A In excess of 24,000.

17 Q Can you give them to me by community, please?

18 A It is a long list.

19 Q Well, give us the major ones.

20 A All right, Great Neck Plaza, 437.

21 Mineola --

22 MR. BELLMAN: Can you go slower, please?

23 A (continuing) -- 412.

24 These are the larger numbers.  
25

Freeport, 2,002.

Hempstead -- This is the village of Hempstead -- 4401,  
184 and 588

Lynbrook, 2242.

Rockville Center, 1758.

Valley Stream, 1212.

Glen Cove, 361 and 471.

And Farmingdale, 206.

Q Do you have Valley Stream?

A Yes, I gave you that.

Q Long Beach?

A Oh, yes, here we are, 6,244.

Q Now, are these areas in which low-income housing  
subsidized under one or more of the Federal Government plans,  
can be built?

A Yes, sir.

Q Now, sir, is there also land available for con-  
struction of apartment houses just north of Mitchell Field?

MR. BELLMAN: Well, your Honor, I am try-  
ing to help, but what does he mean by "available,"  
or the fact that half of this land is developed,  
and half is undeveloped. Some is soft. I don't  
know what is going on. What does he mean by soft?

Q Is there vacant land north of Mitchell Field?

1 8

2 A Yes.

3 Q Do you know who owns the vacant land?

4 A I don't know the corporation. I would say that someone  
5 involved in the Roosevelt Raceway would own it.

6 Q Is there at least 100 acres available for  
7 development of apartments there?

8 A More than that.

9 Q More than that.

10 And did Roosevelt Raceway recently make a public pro-  
11 nouncement as to their intention to develop the land for  
12 apartments?

13 MR. BELLMAN: Objection, your Honor, he  
14 is testifying.

15 THE COURT: That is so. You are testify-  
16 ing.

17 Q Has Roosevelt Raceway made any public announce-  
18 ment about that property recently?

19 MR. BELLMAN: I object. If you want state-  
20 ments to come from Roosevelt Raceway, bring them  
21 in.

22 THE COURT: If he knows where it came  
23 from.

24 THE WITNESS: Yes, they have.

25 Q Where did you get that information from?



9

A The Long Island Review.

Q Commercial Review?

A I believe the name has been changed to Long Island Review.

Q What do they propose?

MR. BELLMAN: Objection. He has read it in the paper.

MR. JASPAN: Do you want me to bring the witness in?

MR. BELLMAN: Yes.

MR. JASPAN: If your Honor please, this is a proposal to develop more than 100 acres for hi-rise apartment houses.

MR. BELLMAN: He is testifying again.

(continued on next page.)

fls

1 1  
2 MR. JASPAN: I am responding to your  
3 objection.

4 And I offer to prove that Roosevelt Raceway  
5 has proposed now to build more than a hundred  
6 acres of high-rise apartments just north of  
7 Mitchell Field.

8 THE COURT: It is only a proposal.

9 MR. JASPAN: Yes. Besides which it was  
10 just recently made.

11 MR. BELLMAN: I am sure it is luxury, if  
12 it is existing at all.

13 THE COURT: I don't know what it is.

14 MR. BELLMAN: It is a newspaper item.

15 Q Is that a fact?

16 MR. BELLMAN: Objection.

17 MR. JASPAN: Why?

18 MR. BELLMAN: I think my objection was  
19 sustained that it is a newspaper article.

20 THE COURT: I will accept the fact that  
21 there is a proposal. What difference does it  
22 make.

23 Q Is there such a proposal --

24 MR. BELLMAN: Mr. Jaspan, the Court has  
25 ruled.

MR. JASPAN: I just want the witness to confirm it.

THE COURT: Whatever it may be, he may say it and that is all.

Is there a proposal?

THE WITNESS: Yes.

THE COURT: That's all.

Q Now, is there land out at Port Washington which is available for development?

A Yes.

Q How would you describe that land?

A Raw barren sand.

Q How many acres?

A The entire complex is about a thousand acres.

Q And is that land suitable for the development of multiple family dwellings?

MR. BELLMAN: Objection.

MR. JASPAN: He is an expert.

MR. BELLMAN: He is not an expert on what can be developed in sand. He is not a builder.

THE COURT: The area of what?

MR. JASPAN: This particular ground.

MR. BELLMAN: For what?

MR. JASPAN: For multiple apartments.



1  
2 THE COURT: Do you know whether the area  
3 is suitable for that --

4 THE WITNESS: Yes, your Honor.

5 THE COURT: Can you build on it?

6 THE WITNESS: I prepared a schematic plan  
7 for the area.

8 THE COURT: You can tell us that?

9 THE WITNESS: Yes, it is suitable for  
10 apartments.

11 How many apartments can be built on the ground?

12 THE COURT: Is this close to the water  
13 there?

14 THE WITNESS: It is right along the West  
15 Shore Road.

16 THE COURT: The West Shore Road. It is  
17 pretty far from any stores?

18 THE WITNESS: Do you recall on the pre-  
19 vious map, this map here, we talked about in  
20 terms of a plan unit development where we would  
21 be providing the stores? The town has rezoned  
22 160 acres for industry. So there will be jobs  
23 as well. And the county owns 270 acres to the  
24 north as a park. So we are providing all the  
25 amenities as a plan for the development. And

4 Pollis - direct

1  
2 the range would be somewhere between 24- and 2700  
3 houses.

4 Q Now, are there estates in Long Island which have  
5 been offered for sale?

6 A Yes, there are.

7 Q Do you know which estates were offered for  
8 sale?

9 A The old Leaman Estate on the North Service Road of  
10 Long Island Expressway in the vicinity of Old Westbury has  
11 been offered for sale.

12 Q Do you know how many acres?

13 A Around 60 plus.

14 Q What else?

15 A The Bruce Estate has been the subject of consideration,  
16 which is on Jericho Turnpike in Syosset. That is about 125  
17 acres.

18 MR. BELLMAN: I object. Again, where is  
19 it offered? An offer of sale, your Honor? Your  
20 Honor knows real estate. What does that mean  
21 unless the owner comes and says it is available  
22 at a certain price and I am selling it.

23 This man is reporting rumors, rumors.

24 MR. JASPAN: He has not said that these  
25 are rumors.

1  
2 if your Honor please, the thesis upon  
3 which the plaintiff builds its case --

4 THE COURT: The estate may be offered  
5 for sale. It may be that the price would be  
6 exorbitant and nobody wants to touch it. It is  
7 not a question of whether you need court approval  
8 to get it at less money or more money. These are  
9 individuals at a private sale. If the buyer is  
10 not willing to pay what the seller wants, then  
11 there is no sale.

12 MR. JASPAN: But if these people do want  
13 to sell, there will be a time when it will be  
14 sold at the prevailing market.

15 What I am trying to show, if your Honor  
16 please, is we have a total defense to the allega-  
17 tion in the complaint that Mitchell Field is the  
18 last available place for the construction of  
19 housing.

20 THE COURT: Who will purchase it?

21 MR. JASPAN: It is available for developers.  
22 It is available from the municipalities.

23 THE COURT: Well, one is as bad as the  
24 other.

25 MR. JASPAN: Well, if your Honor please,



1 I am showing there is land available. If there  
2 was land available their whole thesis that  
3 Mitchell Field would disappear because they  
4 say, look, if we don't build it at Mitchell Field  
5 we cannot build it anyplace. We are showing by  
6 this series of proof that land is available in  
7 Nassau County in substantial quantities, much of  
8 it already zoned for multiple dwellings that you  
9 could put up low income housing.  
10

11 THE COURT: Where the estate was it is  
12 zoned for multiple dwelling?

13 MR. JASPAN: No.

14 THE WITNESS: Some of it is.

15 MR. JASPAN: Some of it is, he says.  
16 I wasn't even going that far. But these lands  
17 are being offered by the owners.

18 THE COURT: There are contiguous estates,  
19 one right after the other. I can foresee the  
20 problems that a fellow would have who would want  
21 to involve himself in trying to get zoning  
22 changes. He would be fighting Town Hall's for  
23 the rest of his life.

24 It is common sense. We don't leave out  
25 common sense outside the courtroom.

MR. JASPAN: I am trying to show they are available lands. They are on the market whether anybody buys them or not.

THE COURT: Sure they are on the market.

MR. JASPAN: If your Honor pleases, a municipality, a town, not the county, if they want to have it for a public purpose has the right of condemnation. All they have to do is pay fair value.

THE COURT: No question.

Go ahead.

THE WITNESS: You asked whether estates were --

THE COURT: No, I didn't ask.

MR. BELLMAN: There is no question.

Q What other estates are available? You said Bruce and you said --

A There is in Syosset, which is included in the map, there is a place called the Jennings Estate and two other parcels adjacent to it.

MR. BELLMAN: Your Honor, there is no foundation for this testimony. What is available?

THE COURT: The better way if the property is up for sale is to bring in the prospectus to

1  
2 show the real estate is up for sale. What do we  
3 have here? He is not a broker.

4 MR. JASPAN: All right. But, if your Honor  
5 please, it is his business to know what is going  
6 on in the county.

7 Let me ask him a couple of questions.

8 THE COURT: It may be his business to  
9 know. But you have to have a little more proof  
10 than that. Suppose the property were up for  
11 sale at five million dollars and nobody wants  
12 to pay five million dollars.

13 Q What is the source of your information that any  
14 of this property is up for sale?

15 A Under State Law Section 239 L & N, the general muni-  
16 cipal law, all applications for rezoning requests that occur  
17 within 500 feet of a county road, state road, county or state  
18 park, must be referred to the Nassau County Planning Commis-  
19 sion for review.

20 We received application for a rezoning for garden  
21 apartments on the three pieces I mentioned which are in the  
22 Syosset area.

23 They came before us on a rezoning request. The only  
24 district that existed in Oyster Bay at the time which pro-  
25 vided for 16 units to the area -- we reviewed the application



-- two applications out of the three parcels -- I am sorry, all three parcels -- and one we sent back saying that the application was premature because the man had a landlocked piece of property. It would be very difficult to develop and that he should wait until they decided what to do with the adjacent piece. When the adjacent piece came in we recommended --

MR. BELLMAN: It was a simple question.

How he knows. You are going into a long story.

THE COURT: All right.

MR. BELLMAN: For rezoning.

MR. JASPAN: That wasn't rezoning --

THE WITNESS: I am trying to get to the end.

THE COURT: Go ahead.

A (Continuing) All right, we recommended that applications were too dense. The town then hired a planning consultant to prepare a plan. As a result of the recommendations of the consultant the town rezoned these three pieces of land for garden apartments.

MR. BELLMAN: It certainly is not responsible as to how he knows of any estates that are available for sale. I didn't hear a word --

THE WITNESS: We also got --

1  
2 MR. BELLMAN: Mr. Follis, please.

3 THE WITNESS: I thought you were asking  
4 me a question.

5 THE COURT: He is objecting.

6 MR. JASPAN: I don't understand the objec-  
7 tion.

8 MR. BELLMAN: I am objecting in that  
9 there is no foundation yet for this man's testi-  
10 mony that he knows of any land available for  
11 sale --

12 Q Well, when the application was made to the  
13 Nassau Planning Commission, is it an application for  
14 development --

15 A Usually we ask for the name of the applicant. It  
16 usually says contract vendee, or owner, or something like  
17 that in the application. So we know whether or not the man  
18 owns the land that he is buying or it is a contingent or  
19 contractual sale.

20 Q With respect to this property, what was the  
21 situation, if you recall?

22 MR. BELLMAN: Contingent contracts pertain-  
23 ing to rezoning does not necessarily mean the  
24 land is available for sale.

25 Q Are there other parcels which have come to your

1  
2 attention at the Planning Commission?

3 A Yes. The Pratt Estate of Glen Cove.

4 Q How many acres?

5 A It's a big one. More than 75 --

6 Q More than a hundred?

7 A Maybe more than a hundred.

8 Q Any others?

9 A There is another one up there but I don't recall the  
10 name of it.

11 Q Is the Whitney Estate available?

12 A Probably not at this time.

13 Q Now, Mr. Follis, as a result of your experience  
14 as a planner have you come to any conclusions as to the type  
15 of housing that is best suitable for low income groups?

16 MR. BELLMAN: Objection.

17 MR. JASPAN: Why?

18 THE COURT: He has got a right to state  
19 the objection. What do you mean why? I must  
20 rule on it.

21 MR. JASPAN: Why isn't it proper? I don't  
22 understand.

23 THE COURT: I will sustain the objection  
24 to the question.

25 MR. JASPAN: If your Honor please, I offer



to prove at this particular time --

THE COURT: I said your question is bad.

Q Are you familiar with the book called Defensible  
Space?

A I am.

Q Is that book by a man named Newman?

A Yes, it is.

Q And is this the book?

A Yes, it is.

Q Does that book deal with high-rise apartments  
for low-income families?

MR. BELLMAN: Objection.

MR. JASPAN: It was in once before.

(Continued on next page.)

Pollis-direct

You were cross examining one of our witnesses. This is your witness. I do not understand this kind of testimony at all. If you want the expert, bring him in here. If this man who wrote this book is an expert -- I have never had the opportunity to read the book and I am not sure I really want to -- but if you want an expert on hi-rise apartments, this man who wrote the book who may or may not be an expert, bring him in. This is an improper way to try to testify through a book.

MR. JASPAN: If your Honor pleases --

THE COURT: I dont think he can testify through a book.

MR. JASPAN: When Mr. Bellman put on the stand Arthur Kunz of the bi-planning commission and when he put on the stand Henry C. K. Liu, and when he put on the stand his Regional Planning friend --

THE COURT: He is an architect or engineer, isn't he?

MR. JASPAN: Who?

THE COURT: Liu.

MR. JASPAN: When he put these people on , he

Pollis-direct

asked them for their opinions as to the type of housing which should be developed in these areas. He particularly took the counterpart of Mr. Pollis, Arthur Kunz, as his very first witness, and Arthur Kunz is the Deputy Director of the Bi-County Planning Commission, and he asked him questions about the types of houses that could be built and where they could be built--

MR. BELLMAN: You were characterizing his testimony again.

MR. JASPAN: Why don't you let me finish?

MR. BELLMAN: It is not a proper characterization of the testimony.

MR. JASPAN: Your Honor, I never finish a statement without an interruption by Mr. Bellman.

All these questions were appropriate. Now I have on the stand a man who has been working with the Planning Commission and who has experience in the planning of communities. I am asking him about the types of housing which are best adaptable to low income groups.

I asked him the question directly. There was an objection, which was sustained. I asked him the question --



Follis-direct

1  
2 THE COURT: Have you made a study of the  
3 type houses for low income groups?

4 THE WITNESS: I have opinions on it.

5 MR. JASPAN: Well, but he is a professional.

6 THE WITNESS: (Continuing) In the course  
7 of my work -- I mean a study -- I don't know your  
8 definition of study.

9 THE COURT: I am not going into semantics.  
10 Did you make a study in the course of your work?  
11 Have you come across problems of low-cost housings  
12 on the basis of how they are to be constructed in  
13 the most suitable areas?

14 THE WITNESS: I think so, yes.

15 THE COURT: That's a study. It is a survey.  
16 In other words, have you made a survey?

17 THE WITNESS: The word --

18 THE COURT: Do you have an opinion?

19 THE WITNESS: Yes.

20 MR. BELLMAN: He has lots of opinions, your  
21 Honor, but that is not evidence.

22 THE COURT: I will take it for whatever it  
23 is worth. We have had so many planners here, I  
24 will take this one, too.

25 (Continued- on next page.)

Follis-direct

## DIRECT EXAMINATION

BY MR. JASPAN (continuing):

Q You have an opinion with respect to the type of housing which is suitable and not suitable for low-income groups?

A I am going to speak --

THE COURT: Just answer the question so you don't get in trouble.

THE WITNESS: Yes, I have an opinion.

BY MR. JASPAN:

Q Oh, would you state that opinion?

MR. BELLMAN: For the record, we object.

THE COURT: Of course.

THE WITNESS: I believe that in Nassau County, at that low-income housing should be similar to the other people in the county have; that if we are going to build apartments, they should be more of the road-type housing so the families have their own open space and back yard, and the density should be that they are not living on top of one another.

I think that density, 12 or 14 units in the acre, comparable to what the Town board

1  
2 Pollis-direct  
2

3 seems to be doing in private sectors for development, and I  
4 think it is suitable for low-income housing.

5 I think it is important, particularly in the family  
6 units, that these people have the same amenities their  
7 counterparts have in the private sections.

8 Q Are you familiar with the Pruitt - Igo  
9 (phonetic) --

10 MR. BELLMAN: What was that?

11 MR. JASPAN: Pruitt-Igo, testified to  
12 by their witness --

13 MR. BELLMAN: I take strong exception  
14 to the Pruitt-Igo argument.

15 MR. JASPAN: You said you didn't know  
16 it and --

17 MR. BELLMAN: I know it. I visited it.

18 THE COURT: He doesn't know --

19 THE WITNESS: Yes, I do.

20 MR. BELLMAN: Everyone against public  
21 housing, it is almost a cliché, it is a racist  
22 argument --

23 MR. JASPAN: I made no racist argument  
24 when I spoke to someone in a project in  
25 St. Louis. --

He wages a blanket attack on everyone



1  
3 2 Pollis-direct

3 that disagrees with him.

4 He should mind his P's and Q's. His  
5 mouth just keeps going --

6 MR. BELLMAN: I think that it's such  
7 an inappropriate argument that it warrants  
8 the strongest argument plaintiff can make,  
9 and if you raise it, this erroneous, irrelevant  
10 issue, I will continue to make argument.

11 MR. JASPAN: If you will sit down and  
12 take your breath -- we are not using it as an  
13 argument in Nassau Public Housing high-rise  
14 apartments --

15 MR. BELLMAN: If --

16 MR. JASPAN: Please.

17 In November, 1972, Lois Thompson said  
18 to this court, "We do not ask for high-rise  
19 apartments, but garden apartments," and I will  
20 present the stipulation to you.

21 MR. BELLMAN: There is no --

22 MR. JASPAN: He never lets me finish  
23 the sentence.

24 MR. BELLMAN: There is no stipulation  
25 in this case --

MR. JASPAN: Please. I didn't interfere

1 Pollis-direct

2 with you. You tried your case your way,  
3 let me try mine.

4 (Pause)

5 THE COURT: What are we looking for now?

6 LAW CLERK: A stipulation.

7 MR. JASPAN: Just one minute.

8 (Pause)

9 MR. JASPAN: Page 11 of the record  
10 before this court dated November 1, 1972;  
11 Miss Thompson:

12 "We don't know how high this housing  
13 will be."

14 Now, take the following sentence:

15 "We are not asking for high-rise  
16 housing."

17 THE COURT: All right.

18 MR. BELLMAN: Don't hand it to me.

19 That is a stipulation of the parties?  
20 You characterize that as a stipulation?

21 THE COURT: It is a statement on the  
22 record.

23 MR. JASPAN: Page 13 of the same record,  
24 Miss Thompson:

25 "We think we are talking about garden

1  
5 2 Follis-direct  
3 apartments, and town houses.

4 "Garden apartments are cheaper to  
5 build than high-rises, your Honor."

6 Miss Thompson, again:

7 "All the statistics and studies show  
8 that garden apartments are cheaper to construct  
9 than high-rises."

10 All of her statements in November of  
11 1972, in sum, were to the effect that they  
12 were not claiming that we should build high-  
13 rise apartments at Mitchell Field, but garden  
14 apartments.

15 MR. BELLMAN: Totally out of context  
16 and Miss Thompson isn't the expert on what  
17 should be done.

18 This case relates to what --

19 THE COURT: She is an advocate.

20 MR. BELLMAN: Right, and Miss Thompson  
21 was responding to your Honor's questions.

22 I don't even know the context of this.

23 The question is whether decisions, by  
24 Nassau County officials, to eliminate housing  
25 and housing plans, has a racial discriminatory  
purpose and effect. It doesn't matter what  
Miss Thompson recommends for Nassau County.



1  
6 2 Pollis-direct

3 That is not an issue in this case.

4 MR. JASPAN: If Miss Thompson agrees --

5 MR. BELLMAN: Well, your Honor --

6 MR. JASPAN: Again, I can't finish.

7 THE COURT: Ask your questions.

8 DIRECT EXAMINATION

9 BY MR. JASPAN (continuing):

10 Q What housing is best for low-income people?

11 A Low-density garden apartments.

12 Q What density per acre?

13 A 12.

14 Q We have had testimony about the recommended  
15 mix of 70, 20, 10.

16 Do you know what that refers to?

17 THE WITNESS: May I speak?

18 THE COURT: Go ahead.

19 THE WITNESS: That is in reference to,  
20 I believe, the urban development corporation;  
21 70, middle-income and up; 20, low-income and  
22 ten percent elderly. In all their projects,  
23 that is the ratio they attempt to achieve.

24 BY MR. JASPAN:

25 Q So, with the 70, 10, 20 mix, 20 percent  
would be low-income?

7 Pollis-direct

1  
2  
3 A Correct.

4 Q So, of 100 houses, 20 would be low-income?

5 A Correct.

6 Q And of that, use, you recommend some 12 to the  
7 acre?

8 A Yes, sir.

9 Q Does the value of the land underlying these  
10 potential developments have significance in the development  
11 of the project?

12 MR. BELLMAN: Objection.

13 THE COURT: It is not an issue in this  
14 case.

15 I say, in the issues in this case, it  
16 has no significance -- compelling necessity  
17 and indiscriminate practices.

18 MR. JASPAN: Where we have a rational  
19 explanation for what we do --

20 THE COURT: That goes to the weight,  
21 but the issue is different.

22 MR. JASPAN: I wanted to ask if the  
23 value of the land is a factor.

24 THE COURT: There is no question in  
25 my mind as to that.

THE WITNESS: I would agree, yes.

1 FoIMS-direct

2 Q Now, the Nassau County Planning Commission  
3 issued a report in December, 1971, which has been marked  
4 into evidence --

5 MR. BELLMAN: Exhibit 10.

6 Q Exhibit 10.

7 Did the Nassau County Planning Commission  
8 make recommendations for housing in that report?

9 A Yes, it devoted several pages, many pages to it.

10 Q Look at that report, please.

11 A I have it.

12 Q And is there a quote in there with respect  
13 to the number of units of housing that might be considered?

14 A It reads, "page 190:

15 "Although recommendations for housing at  
16 Mitchell Field have been as high as 9400 units" --

17 Then there is a footnote -- "summary of  
18 objective plans and polls for the development of Nassau  
19 Center, Markham, Inc., New York, New York, March, 1969,  
20 page 17" -- and then it goes on:

21 "The final determination will be based to a  
22 greater extent on the ability to find suitable housing  
23 sites in other areas of the county to meet the projected  
24 demand.

25 "Sufficient sites are scattered throughout



1  
2                   Follis-direct

3           the County and the need to utilize Mitchell Field is corres-  
4           pondingly reduced."

5                   Q           Isn't that statement in summary, a position  
6           by the Nassau County Planning Commission, that if other  
7           sites are found for housing, they need not be built at  
8           Mitchell Field?

9                   MR. BELLMAN: Objection. That is not  
10           what it said. It said, "might be reduced,"  
11           and I think the report speaks for itself.

12                   THE COURT: Yes, the report does speak  
13           for itself.

14                   (continued on following page)  
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17  
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Follis-direct

## DIRECT EXAMINATION

BY MR. JASPAN (continuing):

Q Mr. Edlis, in view of the history of Mitchell Field, which includes the allocation of 66.9 acres to Mitchell Park: 40 plus covenanted by the Island State Park Commission; 25 acres of land, highly desirable to be protected as the Hempstead Plains; the needs of Bocoas, the Police Department and the Metropolitan Suburban Bus Authority and the needs of the East Meadow School District, to have a more adequate basis, and the capacity problems in Uniondale, do you believe that low-income housing at Mitchell Field is the most desirable land use?

MR. BELLMAN: Objection, your Honor.

THE COURT: No, I will allow him to answer it.

You may answer.

**THE WITNESS: No.**

BY MR. JASPAN.

Q Now, have you prepared a study of all the public housing within a 20-mile radius of Mitchell Field?

A Yes, I have, under my direction.

Q I show you this document --

**A** Yes.

MR. JASPAN: I offer it in evidence.

MR. HYMAN: No objection.

1  
11 FOMs-direct  
2

3 MR. BELLMAN: Your Honor, this has  
4 Greenwich, Connecticut, Manhattan, Bronx,  
5 Queens -- for what it is worth -- I mean  
6 Manhattan continued -- it has a listing of  
7 all public housing in Manhattan --

8 MR. JASPAN: It is in 20 miles of  
9 Mitchell Field?

10 THE COURT: It is closer than 30 miles.

11 MR. JASPAN: Yes, and there is evidence  
12 of that 30 miles.

13 THE COURT: I will accept it.

14 THE CLERK: Defendant's Exhibit HH marked  
15 into evidence.

16 (So marked.)

17 BY MR. JASPAN:

18 Q Have you prepared the same information in  
19 terms of a graph with a circle around Mitchell Field?

20 A That is correct.

21 The circle is a 20-mile radius.

22 Q And is that another way of demonstrating the  
23 units in the 20-mile area around Mitchell Field?

24 A I believe that relates to the numbers in the document.  
25 The number of units are in the document, not on the  
map.



1  
12 2 Pollis-direct

3 Q The dots --

4 A Each one is keyed to a quantity number in the  
5 document.

6 Q When it says 20, 25-N or 28N --

7 A That is 28 Nassau and 28 BX, that is in the Bronx.

8 MR. BELLMAN: What do you mean by  
9 Public-assisted housing?

10 THE WITNESS: Any form of public-  
11 assistance to the housing.

12 MR. BELLMAN: PHA?

13 THE WITNESS: We utilize the data  
14 supplied to us by the individual agencies.  
15 The City of New York provides us with their  
16 data, the County of Westchester, Greenwich,  
17 Connecticut, Nassau and Suffolk, as to those  
18 forms of publicly-assisted -- not PHA --  
19 236D3; that type of stuff.

20 MR. BELLMAN: We object. It is not  
21 clear what it is.

22 MR. HYMAN: It is just the pictorial  
23 effect of the record.

24 MR. BELLMAN: You cannot testify --

25 MR. HYMAN: I can see what it is. It  
is a map with a half-circle.

13 1 Pollis-direct

2 THE COURT: I will take it.

3 THE CLERK: Defendant's Exhibit II  
4 marked into evidence.

5 (So marked)

6 MR. JASPAN: Nothing further, your  
7 Honor.

8 MR. HYMAN: No questions.

9 CROSS-EXAMINATION

10 BY MR. BELLMAN:

11 Q I would like to focus on one area of your  
12 testimony: availability of lands for 24,000 apartments in  
13 Nassau County --

14 A Yes.

15 Q Now, let's take one of those areas.

16 You said Long Beach, you had 6244 units?

17 So I understand your testimony, as I under-  
18 stand it, there is space available in Long Beach today  
19 for the construction for over 6,000 units of apartments?

20 A Do I have to answer yes or no?

21 Q I'm trying to understand your testimony. If  
22 you will explain it?

23 A Yes.

24 The Nassau County Planning Commission for a  
25 period of years put together block sheets, large-scale

Follis-direct

detailed maps of all of Nassau County with land zoned for apartment use.

We had gone into the field and marked what the land is used for; is it vacant, is there a church on it or something else, and it is categorized in three groups: one is vacant, two likely for redevelopment and three, the use is unlikely to change.

As a result of those numbers, we put together the likelihood of a quantity of apartments that could be built in each community.

In the case of Long Beach, where the zoning is still 100 square feet per unit, we considered it relative to good sites, design, and off-the-street parking, et cetera, et cetera.

So, the 2400 units --

Q 627

A 62 for Long Beach, 2400 county-wide.

So our professional judgment what the average real estate guy can put up -- he doesn't need zoning, just the ability to buy.

Q You would need a lot of land to build 6,000 units in Long Beach?

A Not according to their zoning ordinance.

Q How much vacant land is there in Long Beach?



Pollis-direct

A Off the top of my head, I don't know.

Q You don't know the vacant land in any of the towns?

A Yes, we do.

Q How much in Long Beach?

A Do we have the by-county land use study?  
The brown book, volume one?

Q That is a bit out of date, isn't it? That was 1966.

A Off of that you can make some value judgment.  
We updated that document.

Q I am trying to find out your figures.  
These figures are not based on vacant land per se, are they?

A Yes, and soft land.

Q Is this what you are looking for (indicating text)?

A Yes.

Q Plaintiff's Exhibit 11.

Tell me how many vacant acres in 1966 there were in Long Beach?

A 54.

Q 54 and you don't know if those 54 were zoned for multiple or not?

1  
16 Pollis-direct  
2

3 A No.

4 Q So, in 1966 there was no vacant land -- as  
5 far as you know, there was no vacant land in Long Beach  
6 zoned for multiple use?

7 A I don't know.

8 MR. JASPAN: I am sorry?

9 THE COURT: He doesn't know.

10 MR. JASPAN: The question was posed in  
11 the negative, and it is not a fair question.

12 BY MR. JASPAN:

13 Q Now, let's take Hempstead.

14 You said 4400 units.

15 Could you tell me in 1966, how many vacant  
16 acres there were in Hempstead?

17 MR. JASPAN: Excuse me, if your Honor  
18 please.

19 To make sure it is the same book --  
20 my book says 1968.

21 THE WITNESS: The filed survey was  
22 done in 1966, and reflects 1966 data.

23 MR. JASPAN: But it is the same book?

24 THE WITNESS: Yes.

25 MR. JASPAN: All right.

THE WITNESS: Hempstead -- 117 acres.

1  
17 2 Pollis-direct

3 Q Is there any reference as to how many of those  
4 acres are zoned multiple?

5 A This study didn't do that.

6 Q Do you know how many vacant acres there are  
7 today in Hempstead? Zoned multiple?

8 A We have in our office --

9 Q Is it a large number of acres?

10 A It was sufficient to put this on --

11 Q Now, Mr. Pollis, I am asking a different  
12 question.

13 A We have it by both categories. I don't know the  
14 numbers.

15 Q Can you give me an estimate of how many  
16 vacant acres of multiple land there is in Hempstead?

17 A No, I can give it to you exactly but I don't have  
18 the numbers with me.

19 Q In 1966, how many vacant acres of land was  
20 there in Freeport?

21 THE COURT: What exhibit is that?

22 THE WITNESS: Exhibit 11, your Honor.

23 THE WITNESS: Your argument is going to

24 go through out --

25 BY MR. JASPAN:

Q Mr. Pollis, please tell me how many vacant



1  
18 2 Pollis-direct

3 acres there were in Freeport in 1966?

4 A 165.

5 Q You don't know which of those were zoned  
6 multiple, do you?

7 A No, I don't.

8 Q Now, would you take the community of Lynbrook  
9 and tell me how many vacant acres?

10 A 48.

11 Q And again, you have no reference to whether  
12 that is zoned multiple or not?

13 A Correct.

14 Q Those were 1966 figures.

15 It is true, is it not, that a lot of land  
16 that was surveyed and found to be in vacant condition, in  
17 the 1966 report, in this study, has since been developed?

18 A Some of it.

19 (continued on following page)  
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21  
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## Pollis-cross

## CROSS EXAMINATION (CONTINUED)

BY MR. BELLMAN:

Q Isn't it true, half of it has been developed?

A No.

Q Now, with respect to the central areas, you said could be sites for development of low-cost housing, these are developed areas that would require some construction to lead to low-cost housing?

A To a great extent.

Q It is true, is it not, that a lot is the vacant parcels you made reference to, like the area of Roosevelt racetrack would be costly?

A I am not a real estate appraiser.

Q You have a pretty good idea of what vacant land is going for in Nassau County?

A Not that good an idea.

Q But very expensive?

A Relatively speaking.

Q Because there is a premium on vacant land in the County?

A Generally speaking, yes.

Q It is a pretty much developed County, isn't it?

A Yes.

Q Now, you said you were familiar with the Pruitt-

Igoe development. That happened to be a public housing development?

THE COURT: For your information, it was never asked. We never got around to that and I would stay away from it.

MR. BELLMAN: I withdraw the question.

THE COURT: Yes.

Q One final question:

Mr. Follis, by car, how long would it take to get from Greenwich, Connecticut to Mitchel Field, under good driving conditions?

A I don't have the vaguest idea. I have never driven it.

MR. HYMAN: How long by helicopter?

THE WITNESS: I have never flown it.

MR. BELLMAN: No further questions.

MR. JASPAN: The defendant rests.

THE COURT: How about the plaintiff?

MR. BELLMAN: Plaintiff rests.

MR. HYMAN: GSA rests.

MR. LEONE: Town of Hempstead rests.

THE COURT: All right. Everyone has rested.

MR. JASPAN: Now, if your Honor please, I would like to make a couple of motions.

In the first place, I would like to move again



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2 to dismiss the Plaintiff's cause of action, this  
3 time because they have failed to establish any  
4 aggrieved class.

5 The NAACP testified to an interest in this  
6 problem. They said they were concerned with  
7 housing in Nassau County for low-income groups.  
8 Not one word of testimony from them, though, that  
9 any member of their organization has been affected  
10 by what they alleged to be a shortage of housing  
11 in Nassau County, not one single member.

12 In the Sierra case, decided by the Supreme  
13 Court of the United States, it was held that a  
14 mere interest in the problem is not sufficient  
15 to warrant a position as a representative of a  
16 class and I respectfully submit that the NAACP  
17 is not representative of any class in this case.

18 The only other plaintiff who took the stand  
19 and testified was Betty Redfern, mother of four  
20 children who lived in an apartment made available  
21 or found for her by the Department of Social  
22 Services, for which she paid up until recently,  
23 \$300 a month, although Social Services paid her  
24 only \$292.50 and she alleged further, she was  
25 now subject to a \$25 increase.

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2           Upon cross examination, she said that she  
3 found other apartments, and specifically zeroed  
4 in on one, but said the landlord wouldn't rent  
5 it to her because she was either Welfare or black.

6           Now, if your Honor please, in the first  
7 place, she is not a member of an identifiable  
8 class.   The seven dollar or thirty two dollar  
9 deficiency didn't make her a member of a class.  
10 The mere fact that she could find other apartments  
11 which were denied to her in violation of the open  
12 housing law in the County of Nassau, is proof that  
13 the apartments are available.

14           Miss Redfern's complaint is against one of  
15 two agencies; either the Department of Social  
16 Services, because the shelter rent provided her  
17 is inadequate -- her apartment is good; no  
18 complaints; has enough bedrooms -- or the landlord  
19 in violation of the Nassau County law, who has  
20 refused to rent to her.

21           But she is not aggrieved, or, except for  
22 the bland statement that she would like to live in  
23 Mitchel Field, is there any evidence that it would  
24 be suitable for her, or that would give her access  
25 to her schooling, she was taking to be self-sufficient.



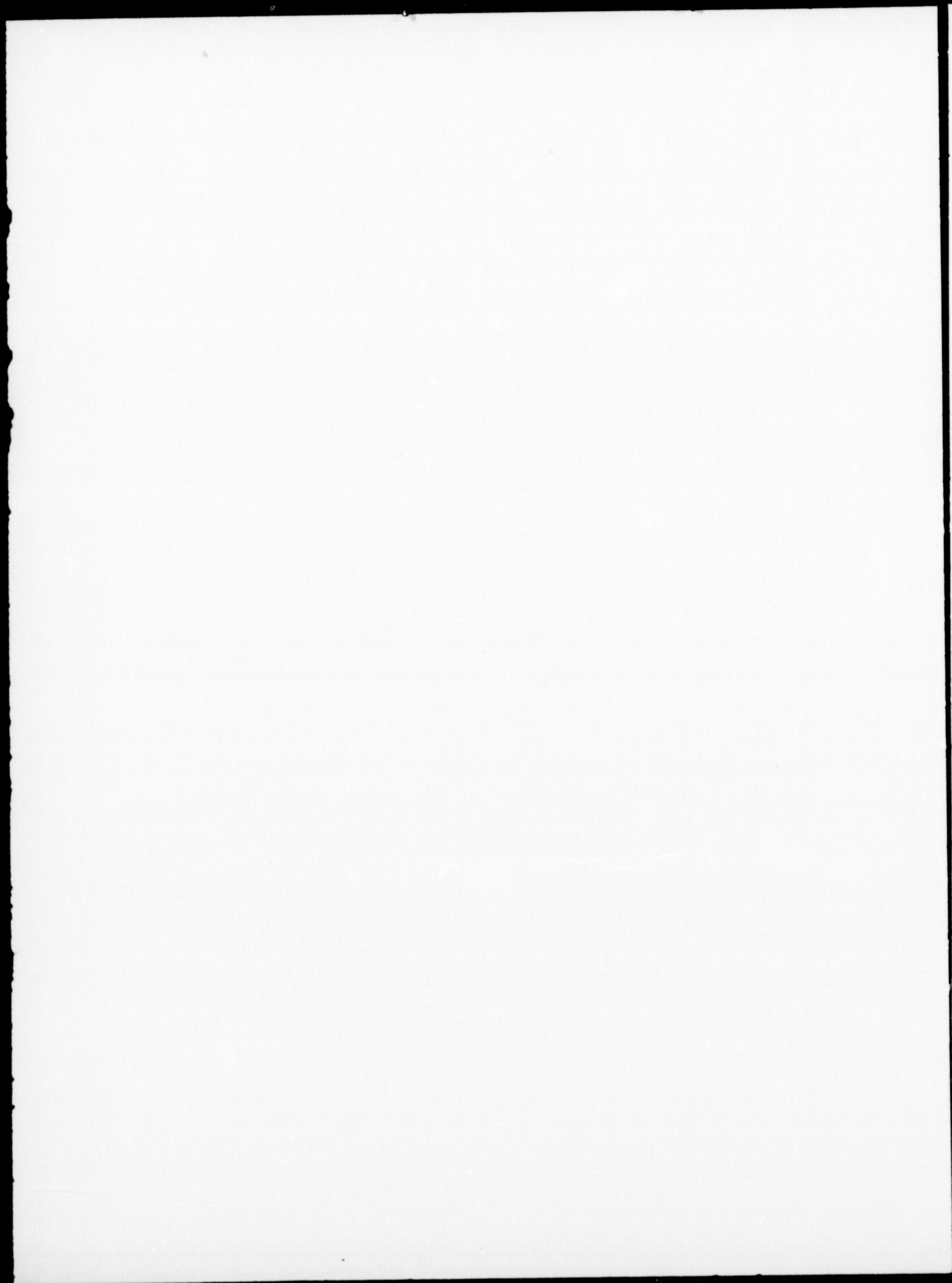
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2 Now, one additional objection dealing with  
3 the class: At the very beginning of this case,  
4 I moved for a classification of the class which  
5 said it was black and Spanish-speaking people who  
6 live in or desire to live in the County of Nassau,  
7 and people of low-income -- I forget the exact  
8 words-- who desire to live in, or live in the  
9 County of Nassau.

10 I pointed out that the first phrase was a  
11 redundancy and that what we had, as I read the  
12 record, was a single class of an economically  
13 deprived group of any color, kept out of Nassau  
14 County, or coming there, could not find available  
15 housing.

16 I submit to you now, as I submitted then,  
17 that this is an economic group, not a racial group,  
18 and it is certainly economic in Nassau County where  
19 51 percent of the people on Welfare are white and  
20 where poverty is not the special province of the  
21 black or Spanish-speaking people but all people  
22 living in this County.

23 Now, in a couple of cases decided by the  
24 Supreme Court of the United States, including  
25 Dandridge v. Williams, which I cite in my brief, and





1  
2 in the Valtarr case, the Supreme Court of the  
3 United States held that we have not yet raised  
4 the issue of discrimination against the economic  
5 class to a state where it constitutes the protected  
6 rights of any group of people.

7 I do not buy the statement -- and I urge  
8 upon this Court a position -- that we have  
9 discriminated upon anyone. On the contrary, when  
10 it was no housing, it was 70 percent luxury and  
11 moderate, and twenty percent low income. All housing  
12 was excluded, not just low-income.

13 What we did was exclude the other ten  
14 percent.

15 Now that this case is completely rested, there  
16 has been no aggrieved plaintiff with an identifiable  
17 claim constituting a violation of any Constitutional  
18 provision, who has come forth in this Court to  
19 sustain that position.

20 I would like to point out that in the Lindsay  
21 v. Normett case, the Supreme Court of the United  
22 States says there is no Constitutional guarantee  
23 to any social type or quality of housing.

24 Again, I think the evidence will show that  
25 in many areas, Nassau County may be favorably

1  
2 considered with respect to the kinds of housing  
3 as against any other.

4 But, even if they proved what they said  
5 they would prove, -- if the plaintiffs had  
6 established their case, the class does not exist.

7 So on this point, my first motion is  
8 to dismiss the complaint.

9 THE COURT: I reserve decision.

10 Go ahead.

11 MR. JASPAN: Now, I move, if your Honor  
12 please, for a judgment for the defendant, County  
13 of Nassau, and its respective officials, upon the  
14 ground that the plaintiffs have failed to establish,  
15 by a fair preponderance of the evidence, any claim  
16 alleged by them in their complaint, either under  
17 the first, thirteenth, fourteenth amendment and  
18 the Statute supplementary thereof, or under the  
19 relief alleged by them under paragraph 143 through  
20 146 of the complaint.

21 Paragraph 143 alleges discrimination against  
22 certain plaintiffs on the basis of their race and  
23 nationality and origin as Black and Spanish-speaking  
24 people.

25 I have already indicated that this is not the



1  
2 certified class, but even if it were, the plaintiffs  
3 have offered no single bit of evidence, no single  
4 item of proof that the failure to build housing in  
5 a single area of the County, Mitchel Field, constitutes  
6 either purposeful or de facto discrimination.

7 The plaintiffs rely upon inferences; (1) That  
8 since some planners have suggested Mitchel Field,  
9 or Mitchel Field and its surrounding areas as likely  
10 sites for a mix of housing, including some low income  
11 units, and since (2) Blacks might move into these  
12 units, that they have built, upon these inferences  
13 and refusals to build housing at Mitchel Field, this  
14 is discriminatory.

15 No witness produced by the witness testified  
16 that the action of the County was based on racial  
17 consideration.

18 I submit again -- no single witness produced  
19 by the plaintiff, said that the action of the County  
20 was based on racial consideration. On the contrary,  
21 every witness produced by the plaintiff, who was  
22 asked and that includes Arthur Kuns, Mr. Nickerson,  
23 Mr. Blankman, Mr. Shore of the Regional Planning,  
24 Mr. Liu and the reports submitted in evidence,  
25 support the County's position that the racial develop-  
ment of the area includes the edu-cultural, civic

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2 and open space proposals of the County and the  
3 need for job space and ratable producing persons.

4 No single witness except Mrs. Redfern,  
5 preferring housing to a Federal office complex,  
6 challenged the plan.

7 But, different opinions were expressed as  
8 to the housing; the kind of housing; the number;  
9 the class; the area.

10 The Welton Report made no provision for  
11 housing.

12 The Nickerson purchase of 191 acres for  
13 industry and park purposes opposed the housing  
14 suggestion of Mr. Caso, for that area -- said "No  
15 industry and park."

16 The Regional Planning Association and  
17 Mr. Shore talked of housing in a ten square mile  
18 area, which incidentally, included Mitchel Field.

19 The bi-county plan merely suggested that  
20 Mitchell Field was among those sites where housing  
21 could be located.

22 The Nassau County Planning Commission Report  
23 issued incidentally, by a lame-duck administration,  
24 without benefit of the approval of the members of  
25 Bi-County Planning, hedged by saying that 9400



1  
2 units were needed at Mitchel Field, to the extent  
3 they were not built elsewhere, obviously if built  
4 elsewhere, they were not needed at Mitchel Field.

5 Markus and Liu were in an incestuous housing  
6 involvement. Markus put in the housing report,  
7 Liu was told to follow the report by Markus so you  
8 got three reports, so if you listened to the  
9 plaintiff, they are three separate reports that  
10 actually, everybody said Liu created nothing  
11 original. He was a physical designer.

12 Neither Markus or Liu took into consideration  
13 the Hempstead Plains, the federal land switch,  
14 the 67 acre park site and a host of other changes.

15 The housing problem, if it exists in the  
16 County of Nassau, is to be solved on an original  
17 basis, and the attack must be made on a regional  
18 basis.

19 Mitchel Field is not the last or only  
20 location for housing.

21 We have indicated the tests available.

22 (Continued on next page.)  
23  
24  
25



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2 MR. JASPAN: The development of Mitchell  
3 Field is the responsibility of the executive  
4 and legislative arms of county government with  
5 the aid of planners.

6 We respectfully submit that this Court  
7 may not assume this power. It may not substi-  
8 tute its judgment for that of the elected officials  
9 of the county, nor can this Court direct the  
10 county to construct housing when the New York  
11 State Constitution denies to the county the power  
12 to do so. Nor may this Court restrain the aliena-  
13 tion of the property as ransom, so to speak,  
14 unless a stipulated portion is developed for  
15 housing.

16 The cases cited by plaintiffs in support  
17 of their case relate to identifiable acts of  
18 discrimination in areas within the power of the  
19 defendants in those actions, Norwalk Co., Kennedy  
20 Park, Parkview against Blackjack, the Park case.  
21 And I am not going into detail. They are all  
22 cited in my brief and have already been called  
23 to the attention of the Court.

24 In those cases --

25 THE COURT: You are going to submit a final

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brief.

MR. JASPAN: Well, these cases are already briefed.

THE COURT: Yes. But you are going to submit a final brief on your side. And I'm going to ask the plaintiffs to do the same thing. And then I am going to make my determination. We don't need this argument because I am going to reserve decision.

MR. JASPAN: If your Honor is going to reserve decision, then --

THE COURT: I want a final brief with findings of fact and conclusions of law from both sides. Then the Court will determine which of those facts it finds to be so and then the Court will make its determination.

MR. JASPAN: All right.

MR. BELLMAN: Does your Honor want it in the form of findings of fact and conclusions of law?

THE COURT: Both findings of facts and conclusions of law.

MR. JASPAN: In other words, we should submit findings of fact and conclusions of law



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and one final brief.

MR. HYMAN: Your Honor, the Government makes a motion to dismiss the complaint on the ground that the plaintiff has failed to meet its burden of evidence in that he has failed to prove by a preponderance of evidence the case against the Federal Government.

The Federal Government joins with Mr. Jaspán on the standing question in his motion and also extends the question of standing as to who is a proper person under the executive order to raise an issue. You have an executive order which tells an agency of the Federal Government to do something. Does that executive order create in a private citizen a right of a lawsuit?

The Government at this time says no, it doesn't. But that is another question to be considered.

As to the facts, your Honor, again there has been no evidence whatsoever that the General Services Administration is going to build this building without first obtaining the various studies by the FMA as required by the executive agreement. There's been no evidence whatsoever.



1 It is still premature.

2  
3 THE COURT: You will also submit a post-  
4 trial brief with your findings of facts and con-  
5 clusions of law. I will accept it from you.

6 Now, how about the Town of Hempstead?

7 That's the way it has to be.

8 MR. LEONE: The Town of Hempstead chooses  
9 to do the same.

10 THE COURT: I will reserve all motions.  
11 Post-trial brief to be submitted when?

12 MR. JASPAN: For the record, you ought  
13 to --

14 MR. LEONE: Yes. For the record, the Town  
15 of Hempstead makes the same motions made by the  
16 County of Nassau and the GCA, and respectfully  
17 ask --

18 THE COURT: All right. Decision reserved.

19 MR. LEONE: All right. Thank you, sir.

20 THE COURT: Now, how much time do you  
21 need?

22 MR. JASPAN: Most of my brief is in so  
23 I don't need more than about two or three weeks.

24 THE COURT: Suit yourselves.

25 MR. JASPAN: Well, what does everybody else

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say?

MR. HYMAN: I will try to do it before August 1st.

MR. BELLMAN: We will try before August 1st.

THE COURT: August 1st.

MR. JASPAN: Can we make it August 8th?

THE COURT: I will tell you, if you get it in by August 1st you may have a decision by August 8th or 9th, because I leave on vacation in -- I hope by August 16th.

MR. BELLMAN: All right.

THE COURT: Otherwise we are going to have it in September.

MR. JASPAN: We can have it in by August 1st if the Court wishes.

MR. BELLMAN: August 1st.

MR. HYMAN: August 1st.

MR. LEONE: Thank you very much.

THE COURT: All right, August 1st.

MR. JASPAN: They had my brief since the beginning of this trial.

THE COURT: All right. Have a good summer.

MR. JASPAN: Your Honor, I want to say

1 this on the record. I want to thank you for  
2 coming in from your vacation. I am sure the  
3 record shows the consideration that you have  
4 given this matter, the fact that you had to come  
5 in on your vacation. It's been a rather long,  
6 complex and I am afraid a somewhat dull case  
7 from time to time.  
8

9 THE COURT: I will make no comment about  
10 it. In any event, have a good summer.  
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